

EXHIBIT 42

To: Daniel Edlin[dedlin@theranos.com]
From: Elizabeth Holmes
Sent: Sun 6/1/2014 12:09:27 AM
Importance: Normal
Subject: RE: Roger Parloff - aggregated action items
Received: Sun 6/1/2014 12:09:29 AM
Pfizer_Theranos_System_Validation_Final_Report.pdf

From: Elizabeth Holmes
Sent: Friday, May 30, 2014 6:07 PM
To: Daniel Edlin
Subject: RE: Roger Parloff - aggregated action items

What can be disclosed is devices

Decentralizable

Will decentralize

Will maintain centralized oversight

From: Daniel Edlin
Sent: Tuesday, May 27, 2014 9:54 PM
To: Elizabeth Holmes
Cc: Jeffrey Blickman; Christian Holmes
Subject: RE: Roger Parloff - aggregated action items

Hi Elizabeth,

Please see below/attached for the Roger Parloff action items list. This does not take into account the photo shoot with Fortune mag. The item numbers have also stayed the same so it's easier to keep track of each task.

Please let me know if you have any questions.

#	Action Item	Resource
STILL NEED TO GIVE TO ROGER - OPEN		
3	Our lab form – showing the reflex testing configuration we will release in the future/all future features	Daniel Y
4	Sepsis paper that will be published	Daniel Y
5	Background on the fact that we figured out how to freeze capillary blood	Daniel Y
6	Data on amount of blood required to do additional tests using a traditional sample that could do any possible reflex tests vs. Theranos	Daniel Y
	- Calculate the number of draws that would be required	
7	Data on performance of POC instruments not being as accurate/good	Daniel Y
8	Data on any combination of tests being able to be done on our framework	Daniel Y
10	Follow up on our finger stick being less painful than a traditional lancet b/c it's a narrower and less deep lancet	Daniel Y / PM Tea
11	Follow up on the DARPA – CAP article and confidentiality	EAH
	- Follow up on IP associated with CLIA lab permitted to have hardware outside its premises	
12	Language on what he can say about our having devices, and how many devices we are using in each facility	EAH
	- How many analyzers per sample he's allowed to talk about	

	- Being able to work within a smaller space – language on this	
13	Follow up on what he's allowed to disclose with respect to software and POC machines being controlled by a certified lab	EAH
15	Language on when our first revenue was	EAH
16	Language on why we do some venipuncture	EAH
17	Language on the device comparison and lab comparison b/t Theranos and Quest	EAH
18	Language on medical advisory board	EAH
19	Point about the fact that we're a CLIA certified lab and not a technology company that publishes on our technology – background on this	EAH
22	Follow up on intermountain POC - How far along we are and operationalizing that in terms of their sending us samples	EAH and PM Team
33	Patent application figures - EAH as co-inventor Are the following figures, listing EAH as a co-inventor, up to date? - 80 US patent applications; including - 17 issued US patents; and - 2 'allowed' US patents. - 182 foreign applications; including - 65 issued patents; and - 4 'allowed' patents.	IP Team (who on
34	Patent application figures - EAH NOT LISTED as co-inventor - How many US Patent applications? - How many issued US patents? - How many 'allowed' US patents? - How many foreign applications? - How many foreign issued patents? - How many foreign 'allowed' patents?	IP Team (who on
35	Patent application figures - general - Has Theranos supplemented its portfolio with patents purchased from other sources? - Can you say or estimate the size of Theranos's entire patent portfolio from all sources?	IP Team (who on
36	Physician contacts Roger can talk to	EAH
37	Speaking to Medicare/Medicaid	EAH
38	Lab report showing trending data	Jeff/Daniel
39	Follow up on operationalizing the infectious disease tests with Helfet	EAH
40	Possible PT data, validation reports, pharma reports, and valuation	EAH Thoughts
STILL NEED TO GIVE TO ROGER - IN PROGRESS		
1	Follow up on all of our state certifications	Adam/Mark/Brad
21	Quotes from pharma companies	EAH / Previous pr
23	Data on how far along we are with Dignity	EAH and PM Team
30	Medicare/Medicaid sources on savings from reflex testing	PM team
32	More quotes from patients, physicians, nurses, payors (LIST FROM SALES)	SALES
DONE - SENT TO ROGER		
20	Send him the Moira Gunn interview	EAH / PM Team
26	IPad App – show mock up	Jeff
27	Preview of .md and .me – consumer focus	Jeff
28	Recording of HEP presentation	PM Team

31	More quotes from patients (LIST FROM RYAN)	PM - RYAN
DONE - PER EAH		
2	Data – showing our performance vs. hospital labs (or other labs)	Daniel Y
9	Follow up on Vitamin D CV and NIST / CDC standards being less than 5%	Daniel Y
14	Follow up as to what year Larry Ellison invested	EAH
25	Is it OK to talk to General Mattis?	EAH or Dan
29	Include data on the fact that we're making pricing at 90% below Medicare (chlamydia and gonorrhea)	PM team
NO LONGER NEEDED		
24	Intro to Charles Roussel	EAH or Dan

Thanks,

Dan

From: Christian Holmes
Sent: Thursday, May 22, 2014 8:47 PM
To: Elizabeth Holmes
Cc: Jeffrey Blickman; Daniel Edlin
Subject: Re: Roger Parloff - aggregated action items

Elizabeth – please see notes below and attachments for PM action items. In addition to the quotes from pharma diligence, I have the binder as well. I am keeping this locked in the cabinet next to my desk (I have the key so it's secure).

Let us know if there are questions.

Thanks

Christian

20: Send him the Moira Gunn interview

- Attached

- URL:

http://web.archive.org/web/20130729223151id_/http://itc.conversationsnetwork.org/series/technation.html?series=&channel=

21: Quotes from pharma companies

- GSK: After running clinical trials with Theranos instead of the central laboratory, GlaxoSmithKline's Lab Director concluded that "Theranos' lab infrastructure eliminates the need for a lab." (*see more below for full quote*)
- Johns Hopkins: "The technology is novel and sound. It can accurately run a wide range of routine and special assays." "No major weaknesses were identified."
- I also pulled the binder of pharma due diligence. Particular areas of relevance:
 - o Pfizer-TheranosAngiogenesis Study Report: p. 26 lists conclusions of study
 - "The Theranos System performed with superior performance to reference assays while running in a complex ambulatory environment."
 - "One of Theranos' pharma partner is publishing a report which estimates the increased time to market is valued at \$1M per day – making every month quite substantial."

- Schering-Plough-Theranos Assay Validation Report: p. 14 lists conclusions of study.
 - “The Theranos IL-6, TNF-alpha, CRP assay multiplex has been shown to give more accurate and precise results for three independently calibrated cartridge lots and all the many instruments used than current “gold standard” reference methods.”
- Excerpts from GSK-Theranos Metabolic Study Report:
 - “The Theranos system eliminate the need for a lab and provided quality data”
 - “The Metabolic Biomarker Lab has a favorable impression of the technology/system and recommends GSK clinical groups to work with Theranos”

22: Follow up on intermountain POC. How far along we are and operationalizing that in terms of their sending us samples

- Roger already reached out to George, who is standing by to hear from us before engaging back with Roger. With regard to status, we have a kickoff meeting scheduled for next week to iron out logistics for sending samples.

23: Data on how far along we are with Dignity

- Waiting on approval of the list of who the point people are internally to get this in motion, along with approval of the list that Daniel sent for phase 1 validation. In parallel we are working with their IT people on EMR integration with the next meeting scheduled for May 28

26: iPad App – show mock up

- Attached

27: Preview of .md and .me – consumer focus

- Attached

28: Recording of HEP presentation

- We emailed Julie to ask for clips or a copy of the session. Waiting on this, but she said probably not until the end of the month. Here is the URL for your speaker page: <http://www.healthevolutionpartners.com/elizabeth-holmes/>

29: Include data on the fact that we’re making pricing at 90% below Medicare (chlamydia and gonorrhea)

- For chlamydia and gonorrhea test (panel) we are about half off of CMS rates, per what’s on our website. Checked with Sunny per our discussion and he said to use the flu panel as an example for infectious disease in this case. Our pricing below is 50% Medicare

87633	Resp virus 12-25 targets	\$572.91	\$286.46
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30: Medicare/Medicaid sources on savings from reflex testing

- CMS
- Henry J Kaiser Family Foundation (kff.org)
- Medicaid.gov
- Theranos pricing

31: More quotes from patients, physicians, nurses, payors

- Attached email entitled "Aggregate List of Customer Feedback"

From: Daniel Edlin

Sent: Wednesday, May 21, 2014 5:26 AM

To: Elizabeth Holmes

Cc: Christian Holmes; Jeffrey Blickman

Subject: Roger Parloff - aggregated action items

Hi Elizabeth,

Please see below for the updated, aggregated list of follow-up items for Roger Parloff. I've also included a column for a suggested contact person/resource for each item. If you have any guidance on when we may need these items by, or if there is someone else we should be reaching out to, please let us know and we'll communicate accordingly to the resources. As per emails from yesterday, we're in process of compiling the updated quotes (#31).

#	Action Item	Resource
1	Follow up on all of our state certifications	Adam/M
2	Data – showing our performance vs. hospital labs (or other labs)	Daniel Y
3	Our lab form – showing the reflex testing configuration we will release in the future/all future features	Daniel Y
4	Sepsis paper that will be published	Daniel Y
5	Background on the fact that we figured out how to freeze capillary blood	Daniel Y
6	Data on amount of blood required to do additional tests using a traditional sample that could do any possible reflex tests vs. Theranos - Calculate the number of draws that would be required	Daniel Y
7	Data on performance of POC instruments not being as accurate/good	Daniel Y
8	Data on any combination of tests being able to be done on our framework	Daniel Y
9	Follow up on Vitamin D CV and NIST / CDC standards being less than 5%	Daniel Y
10	Follow up on our finger stick being less painful than a traditional lancet b/c it's a narrower and less deep lancet	Daniel Y
11	Follow up on the DARPA – CAP article and confidentiality - Follow up on IP associated with CLIA lab permitted to have hardware outside its premises	EAH
12	Language on what he can say about our having devices, and how many devices we are using in each facility - How many analyzers per sample he's allowed to talk about - Being able to work within a smaller space – language on this	EAH
13	Follow up on what he's allowed to disclose with respect to software and POC machines being controlled by a certified lab	EAH
14	Follow up as to what year Larry Ellison invested	EAH
15	Language on when our first revenue was	EAH
16	Language on why we do some venipuncture	EAH
17	Language on the device comparison and lab comparison b/t Theranos and Quest	EAH
18	Language on medical advisory board	EAH
19	Point about the fact that we're a CLIA certified lab and not a technology company that publishes on our technology – background on this	EAH
20	Send him the Moira Gunn interview	EAH / Pl
21	Quotes from pharma companies	EAH / Pl present
22	Follow up on intermountain POC - How far along we are and operationalizing that in terms of their sending us samples	EAH and
23	Data on how far along we are with Dignity	EAH and

24	Intro to Charles Roussel	EAH or I
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26	IPad App – show mock up	Jeff
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29	Include data on the fact that we’re making pricing at 90% below Medicare (chlamydia and gonorrhea)	PM team
30	Medicare/Medicaid sources on savings from reflex testing	PM team
31	More quotes from patients, physicians, nurses, payors	PM/Sales

I’ve also attached the ppt deck previously sent to Roger, for reference.

Thanks,

Dan



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Theranos Angiogenesis Study Report

Pfizer, Inc.

Document Outline:

- ∞ Introduction to Theranos
- ∞ Background on Theranos Studies
- ∞ Economic Impact of Theranos Systems to Pharma
- ∞ Angiogenesis Program Overview
 - Study design
- ∞ Theranos System Overview
 - Specifications
 - Theranos System Performance
- ∞ Theranos Field Study
 - Field Performance Overview
 - Trial Data
 - Evaluation of time course results from individual patients
 - Review of generated data, in aggregate by patient ID, sex, cancer type, treatment, etc.
 - Integrated patient information, including date and time of monitoring, medication received, self evaluation of overall health status of each patient and other clinical data in a comprehensive format
 - Assessment of the technical performance of the Theranos System
 - Data transmission % success and mode of transmission used
 - General performance information as logged via the Customer Care line
 - Assessment of patient compliance with protocol
 - Summary of patient and clinical staff assessment of the Theranos System and the Client Solutions team via end-of-study surveys
- ∞ Conclusions
 - General
 - Technical
 - Economic

Introduction to Theranos:

Accurately, rapidly, and effectively profiling the efficacy dynamics of a therapy in clinical studies is an unmet need that has long challenged the conventional blood testing infrastructure.

Theranos has demonstrated in clinical studies that more frequent longitudinal time-series measurements on fresh whole blood samples with a multiplexed platform that eliminates the noise (and inability to accurately characterize very broad dynamic ranges) of conventional tests is imperative to effectively characterizing physiological changes and the efficacy of any intervention.

Theranos' wirelessly integrated data analytical system allows for 'baseline' profiles of pathway dynamics to be created and updated automatically as data is generated in the field. If needed, analyte selection or frequency of sampling can be adjusted at any time during the study based on the data coming in.

In future studies within a given indication, the data analytical infrastructure can be used for predictive modeling wherein new patient data can be indexed against the stored baseline profiles for earlier reads on efficacy dynamics and dose-response.



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Background on Theranos Studies:

Every day gained in getting a new brand to market can be measured in millions of dollars.

Time is a major factor of cost of development of a new drug. For years the pharmaceutical industry has worked to drive every day possible out of the development process, and has reached a point where the physical limitations around the timelines for statistically significant data acquisition primarily determine the time to market.

Theranos Systems revolutionize those timeline constraints by enabling instant access to higher quality data and exponentially faster reads on efficacy and safety dynamics from the initiation of clinical trials. In doing so, Theranos is laying the foundation of a new growth model for pharma.

Theranos Systems radically impact revenues and growth on new and existing drugs in ways that were previously not possible:

- ◆ Faster approvals and studies - Immediate access to results enables immediate decision making and planning; early reads on efficacy dynamics and dose optimization for sub-populations through more comprehensive longitudinal PK/PD profiling
- ◆ Reimbursement and differentiation - Concrete reads on efficacy dynamics and visibility into mechanisms of action to optimize compounds dynamically
- ◆ Rapid access to multiple markets pre and post-approval - early reads on efficacy through trends in the change in rate of key markers allow for rapid label expansion
- ◆ Amelioration of safety concerns – more accurate reads on actual pathway dynamics enable rapid optimization where beneficial and delineation of patient sub-populations

Economic Impact of Theranos Studies to Pharma:

Based on Theranos' previous experience, predictive modeling and more comprehensive longitudinal profiling has resulted in the demonstration of meaningful dose-response and efficacy dynamics profiles in 6 month timeframes where the conventional infrastructure took two years and was still not able to generate hard correlations. An 18 month time-savings, not to mention the ability to gain insight into methods for optimization for label expansion, can conservatively be equated to hundreds of millions of dollars gained. With industry estimates at \$1-3M a day for the value of each day gained in time to market, even 6 months saved ranges between \$180M and \$540M in return on investment.

Equally, once the infrastructure has been implemented, future studies are requiring about 25% fewer patients, reducing the patient costs, number of sites required, assay development, reagent screening, and infrastructure costs for shipping and processing samples through ambulatory point-of-care monitoring.

Overall savings on 6 month trials once the data analytical infrastructure has been established have averaged 50% of the cost of running an equivalent trial through the conventional infrastructure, further saving millions of dollars. As the data analytical engine evolves after the first 6 month study, costs are further reduced in each follow-on study, covering the cost of Theranos infrastructure and units many times over.

Ultimately though, the greatest economic return on investment lies in the ability to expand percentage market ownership through visibility into pathway dynamics that enables rapid characterization of responder populations in ways previously not possible. This capability enables



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commercialization of 'targeted blockbusters' by redefining a company's historical success rate in realizing the target product profile of each drug once it hits the market.

Angiogenesis Program Overview:

The primary objective of the present program was to demonstrate the functionality of Theranos Systems in such a way that future studies could fully leverage the power of comprehensive longitudinal time-series profiling for rapid compound optimization and development.

For this program, Theranos was asked to develop multiplexed point-of-care assays for VEGF and PLGF for use in monitoring patient pharmacodynamic response to anti-angiogenesis therapies. Because the development of VEGFR2 in that multiplex was desirable as a tool for use in future studies, Theranos developed the assay and included it in the point-of-care multiplex.

In this program, Theranos validated not only functional equivalence, but superior performance specifications of the Theranos multiplex to each of the respective 'gold-standard' kits.

An Interim Report on Assay Development was submitted to Pfizer in Q2 '07 upon successful completion of assay development.

As planned for at the interim update meeting with Pfizer, the first patient began participating in the study in July of 2007. In order to fast-track the program timeline, Theranos contracted an independent site - Tennessee Oncology Center.

Enrollment of Sutent patients at this site was very slow; from the time patient screening began (early 2007) and after discussions with respective members of the Pfizer team, the protocol was revised several times to increase the frequency of monitoring but reduce the total number of patients and shorten the monitoring cycles per patient. Likewise, enrollment criteria were broadened to include patients on other therapies with whom trends in the relevant markers could also be profiled.

In doing so, statistical significance in meeting the study goals could still be ensured. Multiple IRB submissions were filed. Final IRB and Informed Consent Forms were included in two interim update reports sent to Pfizer.

Goals of Study:

1. Generate preliminary data on VEGF and PLGF trends in cancer patients while assessing the use of the Theranos System in the hands of clinicians and patients.
2. Obtain feedback and recommendations from clinical staff.
3. Assess the use of the Theranos System in the hands of ambulatory patients at home.
4. Assess the Ambulatory Bioinformatics Communications System¹ including the physician and patient web portals as well as the data reports generated.

Study design:

Patient screening began in January 2007, once the final site was selected, enrollment began. In July of 2007, the first patient was enrolled in the trial. This trial consisted of very ill late-stage (4th line) cancer patients with various tumor types receiving a variety of therapies at the Sarah

¹ The Ambulatory Bioinformatics Communication System (formerly known as ABCS) was rebranded as TheranOS, the Theranos Operating System.



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Cannon Research Center at Tennessee Oncology (TNONC) in Nashville, Tennessee. The patients in the study typically resided in very remote locations across the eastern US. Almost all patients were not computer literate, and most were from low income families, unable to afford private telephone service.

The Theranos angiogenesis monitoring system was evaluated for clinical efficacy and as a means of more accurately and effectively monitoring cancer therapy and the progression of solid tumor cancers from a mechanism-of-action perspective. 32 patients were enrolled. Various cycles of therapies were monitored as well as physical changes in tumor size.

Four of the patients retracted consent to the study, three of them due to family problems and one due to mental and physical instability. Thus, Theranos increased the targeted enrollment number to ensure that the goal of demonstrating performance across significantly significant patient numbers would be met. That goal has now been achieved. To realize the goal, some patients had extended (60 day) monitoring periods.

Since Theranos has the ability to continue monitoring patients under the existing IRB and given the power of some of the correlations which are becoming apparent, Theranos may continue monitoring those patients for an extended period of time.

Enrollment was unpredictable and slow. All installations and shipments completed for this study were done on-demand with less than 24 hours. As part of the installation procedure, Theranos' client solutions team has performed at-home installations and pick-ups for many weak patients.

For each patient, a total of up to 14 time points were collected during the month-long analysis period, 3-4 time points taken at the clinic and the other 10-11 time points taken in-home. Both finger-stick and venous samples were taken during each clinic visit, while only finger-stick samples were run in-home. The venous draw samples were run on the Theranos System in the clinic at the time of the draw; these samples were also processed so that the plasma and/or serum was analyzed using a reference method.

Venous samples were processed using reference methods and provide an archive of 41 anti-coagulated plasma and serum samples which were frozen and have subsequently been analyzed at Theranos.

Theranos System Overview:

The Theranos System is comprised of consumer-oriented readers, single-use cartridges containing assay chemistry and controls, and a data collection system that communicates through cellular networks with the instrument to provide assay protocols and to compute and display results.

The steps required of a new patient are to 1) take the machine out of the box and 2) plug it into a power source. The touch-screen then walks each patient through the process of poking his/her finger, depositing blood into the cartridge, and placing the cartridge in the reader drawer. The instrument then processes the assays and sends the data through the cellular network in real-time to a secure web-portal.

Theranos Systems allow for quantitative, multiplexed longitudinal time-series measurements to map correlations between the rate of change of blood-borne markers over time to surrogate and clinical end-points.



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Specifications:

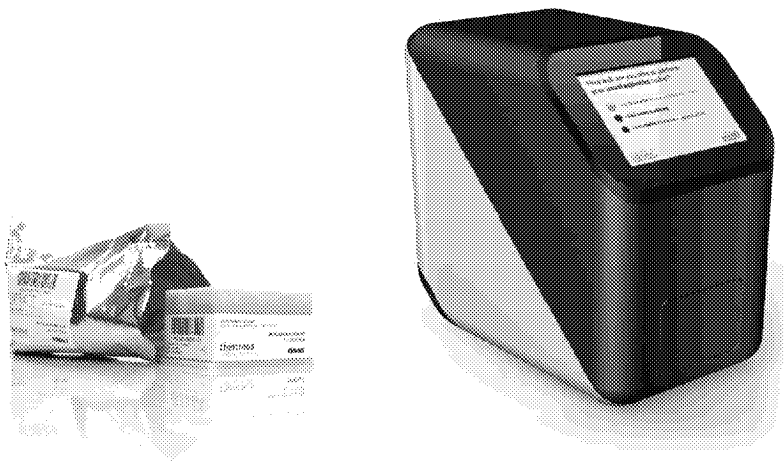
- ❖ Designed for at home use. Can also be used in physician's offices, ICU, and laboratories.
- ❖ Multiplexed measurement of biomarkers.
- ❖ Customizable for different/new assays on demand.
- ❖ Average 6 measurements per cartridge
- ❖ Serial measurements to comprehensively profile pharmacodynamic response through trends
- ❖ Runs fresh whole blood, plasma or serum samples
- ❖ Finger-stick – small sample size
- ❖ Mix and match selection of analytes on demand.
- ❖ Wide measurement range
 - pg/mL – mg/mL (1 billion fold)
- ❖ High sensitivity
 - 0.2 pg/mL (2 parts per 10-billion)
- ❖ Analyte Recovery: ~100 %
- ❖ System CV post-calibration (inter-intra reader, cartridge, and assay): < 10 %
- ❖ On-board chemistry controls
- ❖ Factory calibration (no user calibration)
- ❖ Wireless communication of results to appropriate user through cellular network
- ❖ Proprietary algorithms to interpret time trend results

The existence of a technology infrastructure for home, real-time blood monitoring allows collection of information which cannot be obtained using conventional blood testing scenarios:

- ❖ Small sample (finger-stick) + more frequent sampling of a small subset of analytes enables:
 - Identification of appropriate analytes (greatly helped by more frequent sampling)
 - Earlier detection of efficacy and safety and acute problems so intervention (for example, dose modification or change in drug type) can be more effective
 - Convenience of monitoring through-out a time-course before an event
- ❖ Higher sample integrity; real-time sample analysis on fresh whole blood on a standardized platform which can be deployed at any location (world-wide) eliminates assay inaccuracy associated with commercially available tests performed on samples which are "old" by the time they are analyzed.
 - Elimination of erroneous results (caused by analyte instability) and inherent errors in data and patient correlations (caused by processing data at various contract locations)



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For this study, an instrument was deployed in the home of each patient; four others were installed at the Cancer Center.

Three assays were performed simultaneously in multiplex by the system on a finger-stick sample of fresh whole blood. The analytes were Vascular Endothelial Growth Factor (VEGF), soluble VEGF receptor R2 (sVEGFR2, usually referred to as VEGFR2) and Placental Growth Factor (PLGF). Each assay was controlled using within-cartridge control measurements.

The system was calibrated at Theranos. Multiple cartridge lots were produced each with successively more clinically relevant specifications once samples were received from patients in the trial, as samples were not available during assay validation. Each lot was independently calibrated.

Traceability of calibration: Calibration is traced to authentic analytes dissolved at known concentrations in a plasma-like matrix. Calibration materials are prepared as mixed solutions of the three analytes. Assignment of calibrator concentrations is then made to values found for measurements of calibrators using reference assays.

System Performance Goals:

Assay	Reportable low pg/mL	Reportable high pg/mL	Precision CV, %
VEGF	20	10,000	10
VEGFR2	150	15,000	10
PLGF	5	1,000	10

Assay ranges achieved:

The goals for each assay's dynamic range were achieved. Due to the inability to receive samples for calibration at the beginning of the studies, the upper limit of calibration for VEGF was restricted to 3,000 pg/mL in the first cartridge lots, but then extended² to 10,000 pg/mL. For early cartridge lots the PLGF assay lower limit of sensitivity was 50 pg/mL. Therefore, many early results for PLGF were out-of-range low ("OORL"). Lots produced after receiving samples for calibration have reportable ranges below 20 pg/mL.

² All three assays have a linear dose-responses extending far above the highest calibrator used.



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*Specificity:*

The specificity of the assays depends on the pairs of antibodies chosen for each assay. In the first instance, we rely on the antibody vendor information. Selected pairs are known to have good specificity in ELISA assays. Key issues for these analytes are (1) the structural relationship of VEGF and (2) the fact that VEGF binds to sVEGFR2. We have shown that the Theranos assay system is not affected by the presence of VEGF and VEGFR2 and PLGF in the same samples. In many patients in this study, the drug Avastin is used. This drug is an antibody that binds to VEGF. It is obvious that ELISA assays for VEGF (and perhaps VEGFR2) using antibody pairs are likely to be interfered with by Avastin. As documented below, Theranos assays for VEGF and VEGFR2 appear to function with minimal interference from Avastin. In contrast, the selected reference assay for VEGF is strongly interfered by Avastin.

Theranos System Performance:*Assay accuracy:*

Accuracy has been evaluated by analysis of clinical samples. Two sets of samples have been used: (1) A set of 12 serum samples from cancer patients (obtained from a commercial vendor), (2) 41 archived serum and plasma samples from this study. Because Avastin was used to treat many of the patients in the TNONC study and this antibody strongly interferes with the reference method, we used the commercially available samples for VEGF assay evaluation.

Twelve serum samples were assayed (singlicate) in the Theranos system and in duplicate for the reference method with the following results:

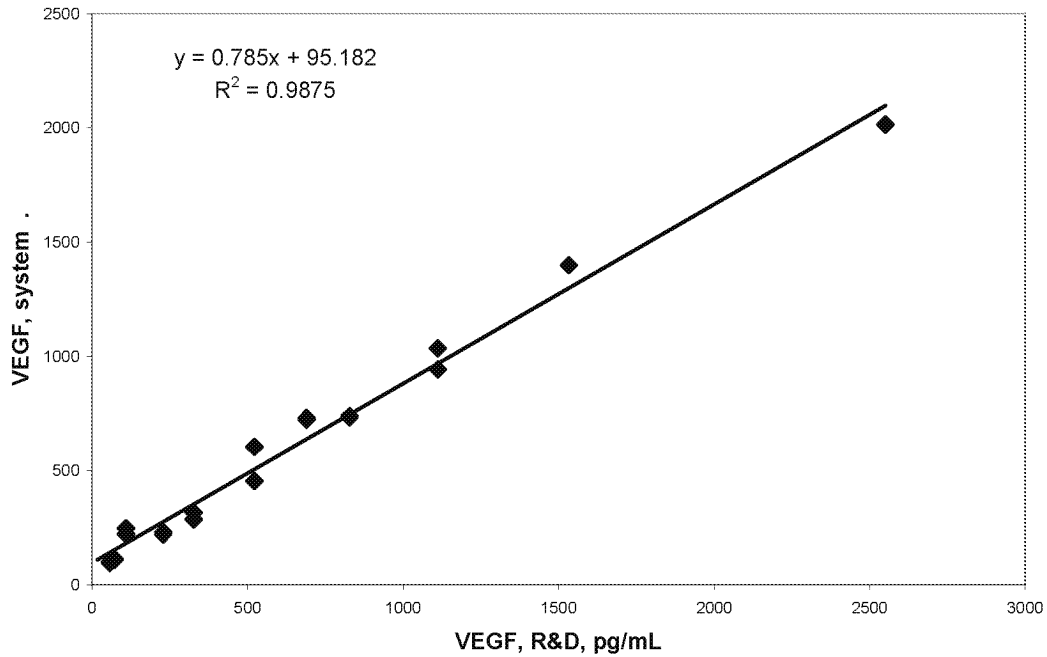
VEGF: $y \text{ (Theranos)} = 0.785 \times (\text{reference}) + 95.2$; $R^2 = 0.99$. Range 96 – 1985 pg/mL. One sample was rejected from the analysis giving very high results in the Theranos system and low results in the reference assay. Based on the study data, it seems likely this patient was being treated with the drug Avastin, which interferes with the reference assay.



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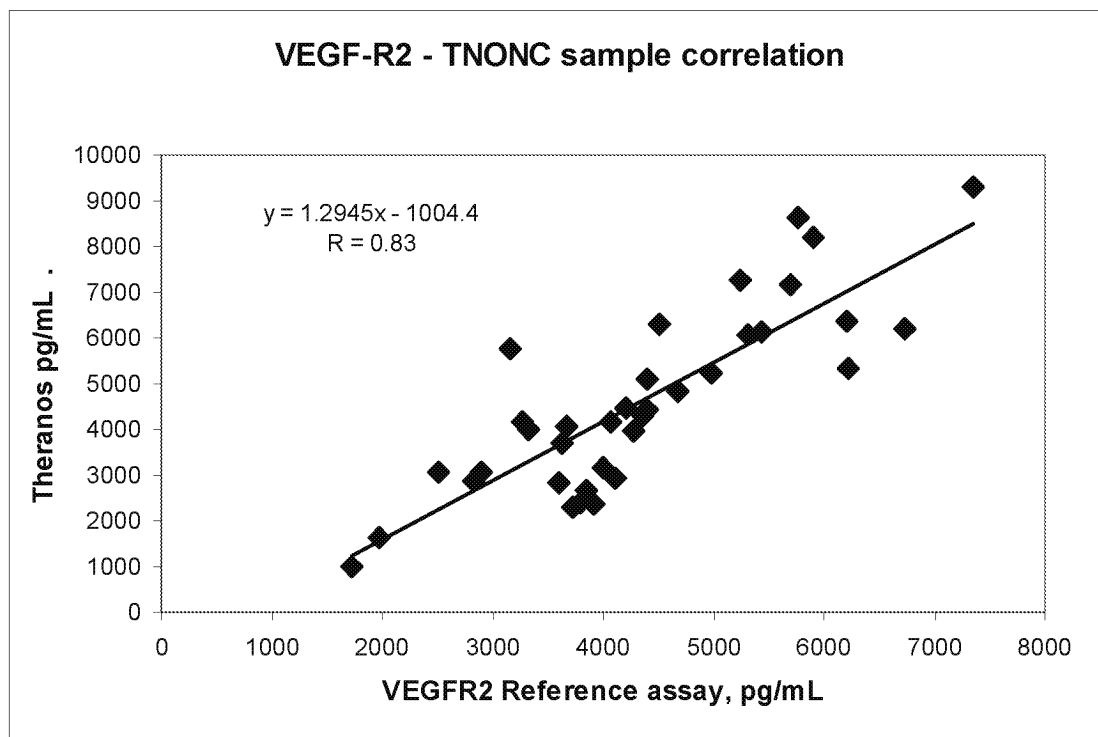
Single cartridge clinical results



For VEGFR2, 39 TNONC samples were assayed in triplicate in the Theranos system and duplicate for the reference method. The results were: y (Theranos) = $1.29x$ (reference) + 1004; $R = 0.83$. Range 1015 – 9285 pg/mL.



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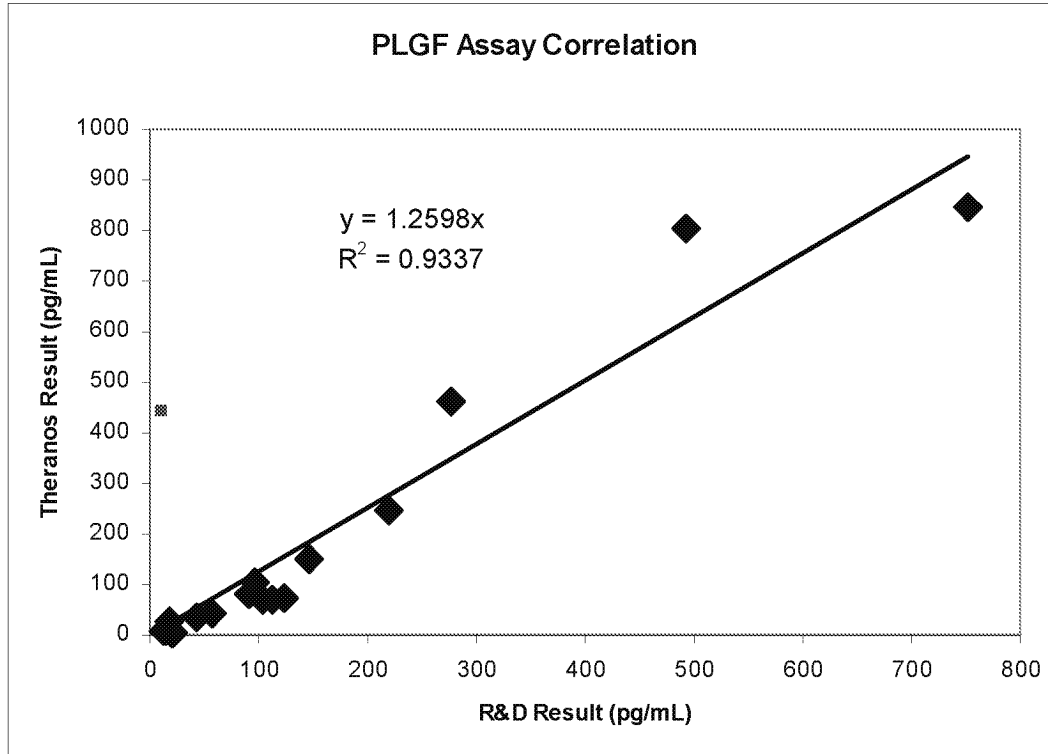


For the initial PLGF samples analyzed by Theranos in the field and with the reference method the results fell mostly in the undetectable range of both methods. Once the Theranos calibration was re-optimized, values became detectable from 5-17 pg/mL in the out-of-range-low venous samples sent to Theranos.

A significant correlation was achieved during validation on normal serum samples from twenty pregnant women assayed in quadruplicate. They were analyzed on both the Theranos system and the reference R&D Systems kit. The following results were obtained: y (Theranos) = $1.26 \cdot x$ (R&D Systems); $R = 0.96$. The average within sample CV for the Theranos results was 9%. One sample (shown in pink) below gave discrepant results.



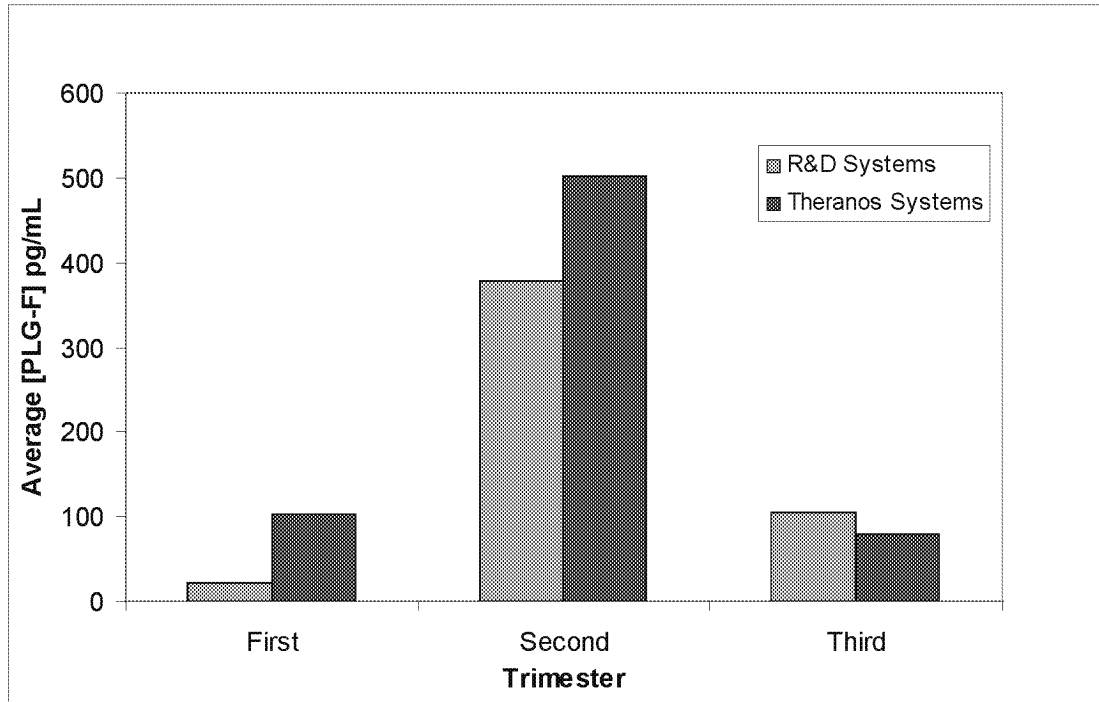
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When the results for patients were segregated by trimester and averaged, the concordance shown below was found.



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Effect of Avastin on the reference VEGF assay:

Comparison of reference and Theranos VEGF assay results for venous samples were not correlated. Many Theranos results were in the thousands of pg/mL where reference assay gave a low value. Since it was noted that many of the patients had been treated with Avastin which binds to VEGF, Theranos did a study of spike recovery for the reference method. VEGF (400 pg/mL) was added to each sample and the assay repeated. Results are shown below:

Avastin Present	VEGF average, pg/mL Ref	VEGF average, pg/mL Theranos
N	149	588
Y	136	8359
VEGF spike recovery, %		
N	66.5	
Y	-1.3	

It is evident that Avastin completely blocks the reference assay response. Presumably, Avastin binds at a site on VEGF close to or identical with that recognized by one of the antibodies used in the reference method. The reference assay thus responds only to free VEGF whereas the Theranos assay is not blocked and measures both Avastin-bound and free VEGF.



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Assay precision:

Inter-Instrument Precision:

Venous samples from patients were run across four instruments.

Assay	Reportable low pg/mL	Reportable high pg/mL	Precision CV, %
VEGF	20	10,000	8.0
VEGFR2	150	15,000	7.3
PLGF	5	1,000	9.2

Precision in comparison to available reference methods was evaluated during calibration. Singlicate measurements from six instruments were used next to commercially available 'gold-standards'. Theranos adjusted the target range after obtaining clinical samples. Due to the superior performance characteristics of Theranos' assay next to commercial standards, obvious variances are seen where the reference methods report OORL.

Single lot calibration data:

Analyte	Range (pg/mL)	Average CV, %
VEGF (lot 3)	30 – 10,000	12.0
VEGF (lot 1)	30 – 3,000	10.0
VEGFR2 (lot 3)	1,000 – 10,000	4.8
VEGFR2 (lot 1)	50 – 800	17.6
PLGF (lot 3)	5 – 780	26.9
PLGF (lot 1)	50 – 800	9.1

Precision was also measured by analysis of the 41 archived clinical samples in assays and for VEGF 12 commercial samples.

Analyte	Range (pg/mL)	Average CV, %
VEGF	30 – 10,000	16.7
VEGF ³	96 – 1985	5.7
VEGFR2	1,000 – 10,000	20.4
PLGF	5 – 780	28.7

Dilution linearity:

Data gathered during lot calibration.

VEGF, pg/mL	Recovery, %
10000	(100)
2970	102
990	95
297	105
100	109
30	105
10	101

³ Commercial samples



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VEGFR2, pg/mL	Recovery, %
10560	(100)
7920	92.9
5280	100.9
3960	104.8
2640	97.7
1320	100.8

PLGF, pg/mL	Recovery, %
780	100.0
312	87.6
156	102.8
47	106.3
16	92.4
5	99.4

For all assays, recovery was close to 100 % in the reportable range.

Limit of detection (LOD):

Data gathered during calibration. The LOD is defined at a 95 % confidence level.

Analyte	LOD, pg/mL
VEGF	< 20
VEGFR2	< 200
PLGF ⁴	< 20

Theranos Field Study:

The system has been deployed to patient's homes and the TNONC study clinic and has downloaded protocols and uploaded data wirelessly. Some patients used direct telephonic communications (POTs modems) if they were worried about cell reception. Data for every patient has been profiled on a secure, Pfizer-specific server.

Field Performance Overview:

In this report we document results from:

- ∞ 27 patients (41% female and 59% male)
- ∞ 13 cancer types
- ∞ 38 Instruments
 - 27 instruments deployed to patients' homes

⁴ Later stage cartridge lots



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- 4 instruments deployed to the clinical site in Nashville, TN
- 4 updated instruments to replace the readers at the clinical site such that the latest design revolution is deployed at the site
- 3 were used to replace malfunctioning readers in the field (2 at clinic - one with communication issue, one mechanical due to user error; 1 at patient's home with mechanical issues from shipping)
- ∞ 445 cartridges (approximately 1300 assay results)
- This number includes cartridges run in-house on archived plasma as well as results gathered in-field

Data acquisition has proven feasible in the home setting. There were instruments in the field operating in extreme temperature conditions (from very hot, no A/C to A/C turned to the maximum) as well as in very diverse locations (from RV's to log cabins in the middle of forests), in remote, difficult to reach areas where poor cellular reception is prevalent.

The instruments have been deployed across three states, including Kentucky, Pennsylvania and Tennessee. As mentioned, typical turnaround time for installation and patient at-home test was less than 24 hours without notice.

In monitoring this multiplex of analytes at far greater frequency than ever before, considerable patient-response variation can be seen across different sub-patient populations, therapies, and cancer types.

When we look at the average results from each patient and the variation seen for each patient, it is evident that the patients vary drastically:

	VEGF	VEGFR2	PLGF
	Avg., pg/mL	Avg., pg/mL	Avg., pg/mL
Maximum	13,584	6,317	410
Minimum	47.5	368	37.3

By evaluating sample statistics such as these, one can identify patients who are anomalous and who may benefit from therapy modification.

For example, of the 13 patients with colon cancer we see one subject with an average VEGF of 13,600 pg/mL and another with an average of 255 pg/mL whereas most of the patients had VEGF values quite closely clustered at 1000 - 5000 pg/mL. Similarly, we see some subjects who show very little variation in analyte values and others with wide variations presumably related to response (high or low) to therapy.

Trial Data:

The following raw trial data is included in the appended spreadsheet:

1. Clinic visit diagnostics (Patient characteristics and Clinical assay results)
2. Clinic visit pivot table (clinical results presented as a customizable pivot table)
3. Patient aggregate data (Compliance data, Result averages and CVs by patient and averages by cancer type)
4. All field analyte data results (from the Theranos system presented by patient in a filtered table format [sort-able])
5. Treatment data (drugs used and dosage)



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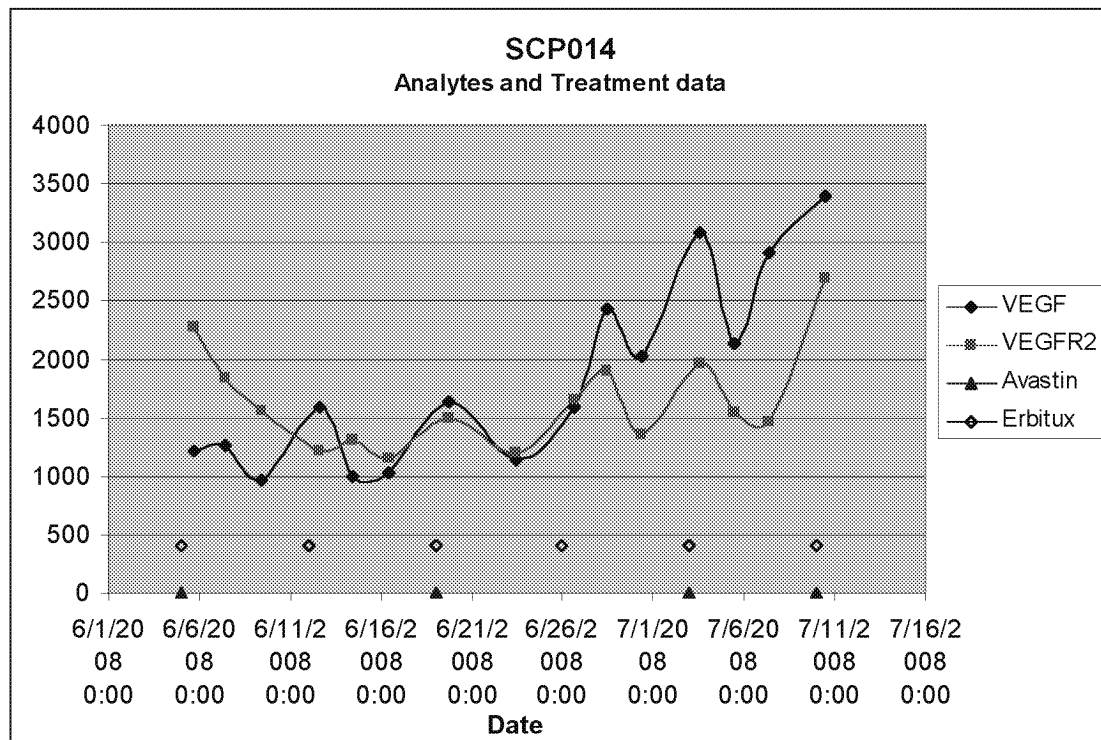


6. Individual end-of-study results (patient evaluation of system)
7. Compilation and summary of end-of-study survey results
8. Data transmission statistics

Evaluation of time course results from individual patients:

The study data demonstrates that in a larger, statistically controlled study, where the endpoint is directly proportional with patient outcome, e.g., a RECIST Score, a correlation between analyte dynamics and patient response to treatment would be generated.

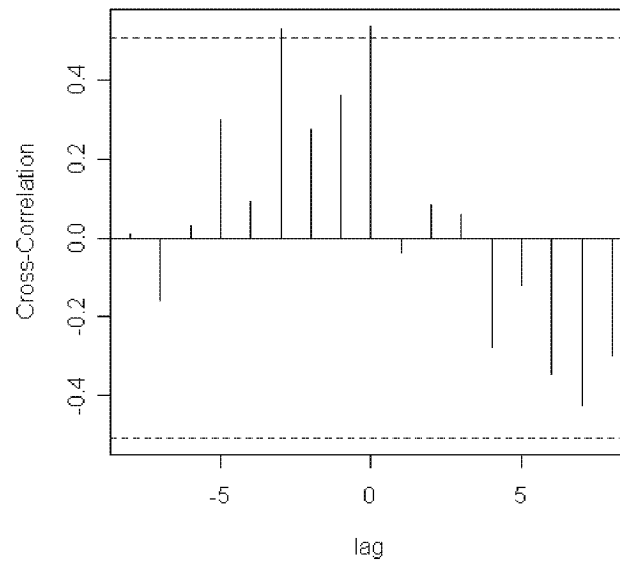
To showcase the ability to profile predictive correlations between treatment and response profiles, we selected data from two patients -- 14 and 12. Due to patient 14's clinic schedule (first figure below), we were able to collect data following multiple infusion dates, allowing limited statistical analysis to be performed that correlates analyte levels with treatment administration. The cross-correlation function (second figure below) looking at VEGF and VEGFR2 blood levels for patient 14 shows a positive correlation at a cadence of 3 data points. This coincides with the patient's weekly clinic visits during which the patient receives the Avastin infusions.



The change in rate of the parameters can be correlated to progress, seen again below in a correlation plot:



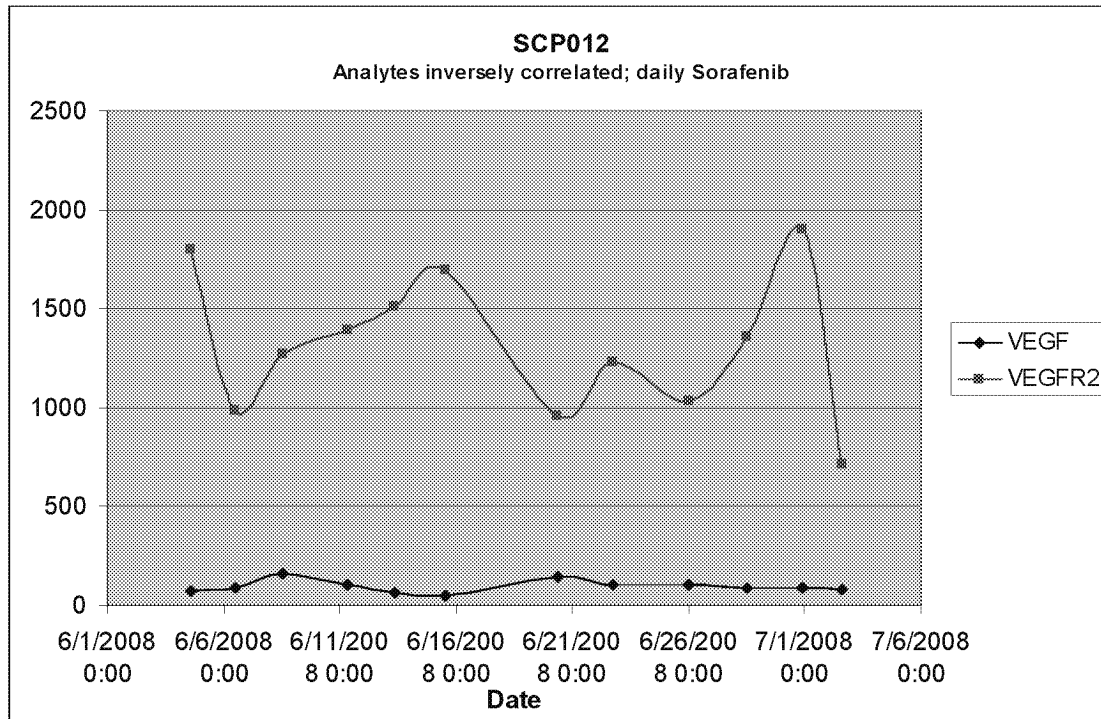
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**tnonc14.vegf & tnonc14.vegfr2**

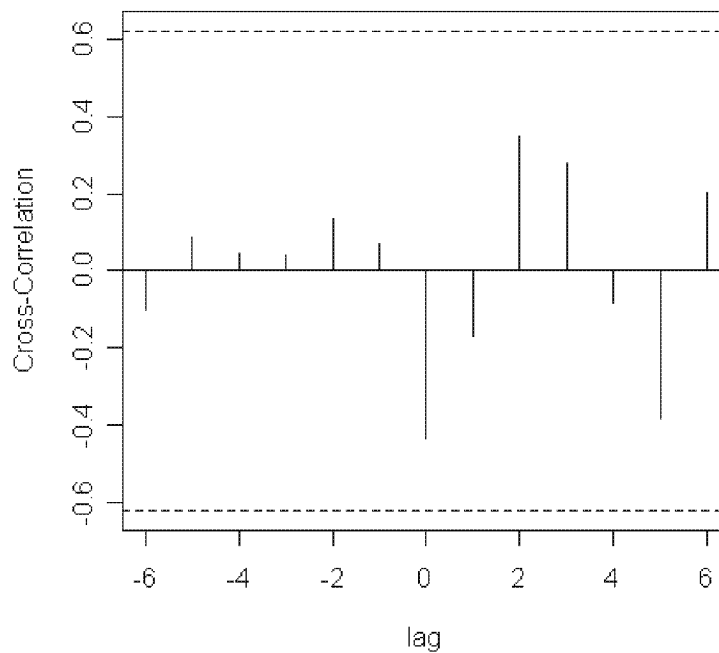
For patient 12 (first figure below), we observe an inverse correlation between VEGF and VEGFR2 blood levels. This suggests that the blood analytes behave differently with different drug treatments, pointing at distinct pathways of drug activity (second figure below).



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tnonc12.vegfr & tnonc12.vegfr2





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For most patients analyzed, the sample size and sample numbers did not provide sufficient statistical power to derive a statistically significant conclusion but some clinical endpoint measurements were accessible to correlate analyte vectors and their rates of change with time to the patient's progression and response to treatment.

Patient average VEGF and VEGFR2 data by cancer type:

Patient ID	Cancer type	Main Treatment	Average VEGF (pg/ml)	Average VEGFR2 (pg/ml)
SCP001	Adenocarcinoma	Sutent	47.5	2592
SCP006	Breast Cancer	Avastin	2082	2662
SCP010	Breast Cancer	Avastin	2055	3040
SCP008	Breast Cancer	Sorafenib	98	1863
SCP021	Colorectal Cancer	Avastin	4677	3646
SCP027	Colorectal Cancer	Sorafenib	1093	4863
SCP029	Colorectal Cancer	Sorafenib	3612	5658
SCP003	Colorectal Cancer	Sutent	72	2798
SCP007	Colorectal Cancer	Avastin	3860	2350
SCP009	Colorectal Cancer	Avastin	1840	368
SCP022	Colorectal Cancer	Avastin	Patient dropped	N/A
SCP014	Colorectal Cancer	Avastin	1826	1634
SCP019	Colorectal Cancer	N/A	Patient dropped	N/A
SCP016	Colorectal Cancer	Avastin	3006	2143
SCP031	Colorectal Cancer	Avastin	13584	5463
SCP024	Colorectal Cancer	Sorafenib	255	1540
SCP028	Colorectal Cancer	Sorafenib	1274	6317
SCP023	Esophageal Cancer	Avastin	3145	2260
SCP030	Gastrointestinal Stromal Tumor	Sutent	889	2424
SCP012	Liver Cancer	Sorafenib	96	1253
SCP017	Lung Cancer	Avastin	3947	2111
SCP025	Melanoma	Avastin	5399	3294
SCP002	Neuroendocrine carcinoma	N/A	Patient dropped	N/A
SCP026	Ovarian Cancer	Sorafenib	Patient dropped	N/A
SCP020	Renal Cell Carcinoma	Sutent	368	883
SCP004	Renal Cell Carcinoma	Avastin	2316	1057
SCP011	Renal Cell Carcinoma	Avastin	3159	1911
SCP013	Renal Cell Carcinoma	Avastin	3908	770
SCP015	Renal Cell Carcinoma	Avastin	3031	1068
SCP018	Tongue Cancer	Avastin	1457	3074
SCP005	Unknown Primary	Avastin	3099	2980

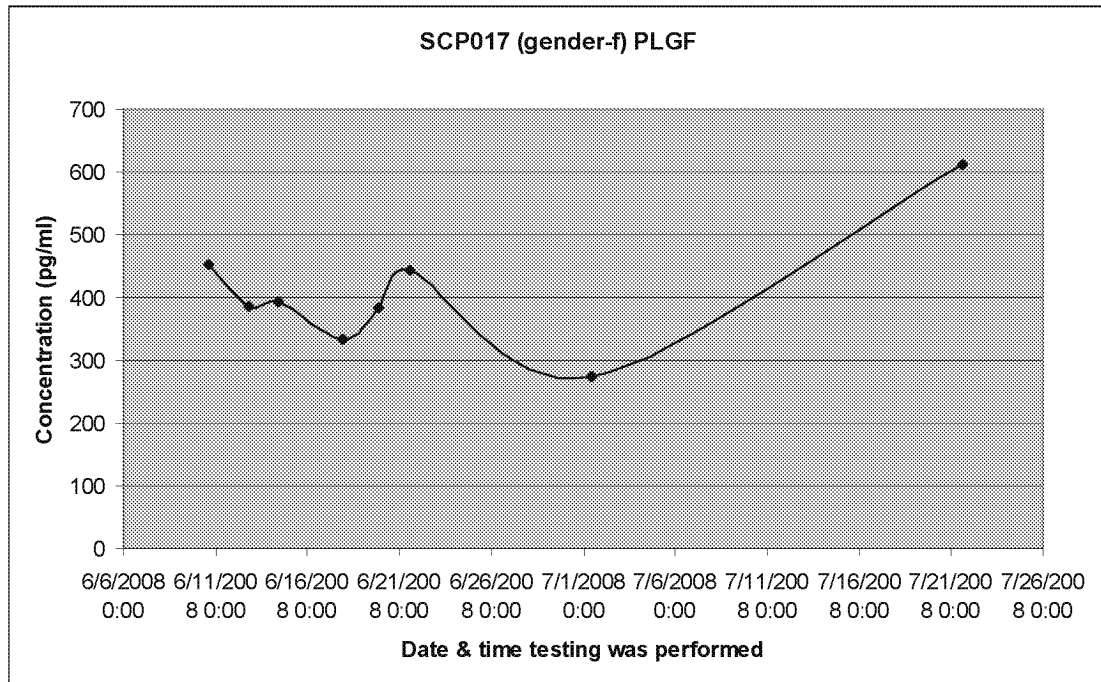
As referenced, patients #2, #19, #22, #26 dropped out of the study for various reasons; therefore average values are not statistically significant for them.



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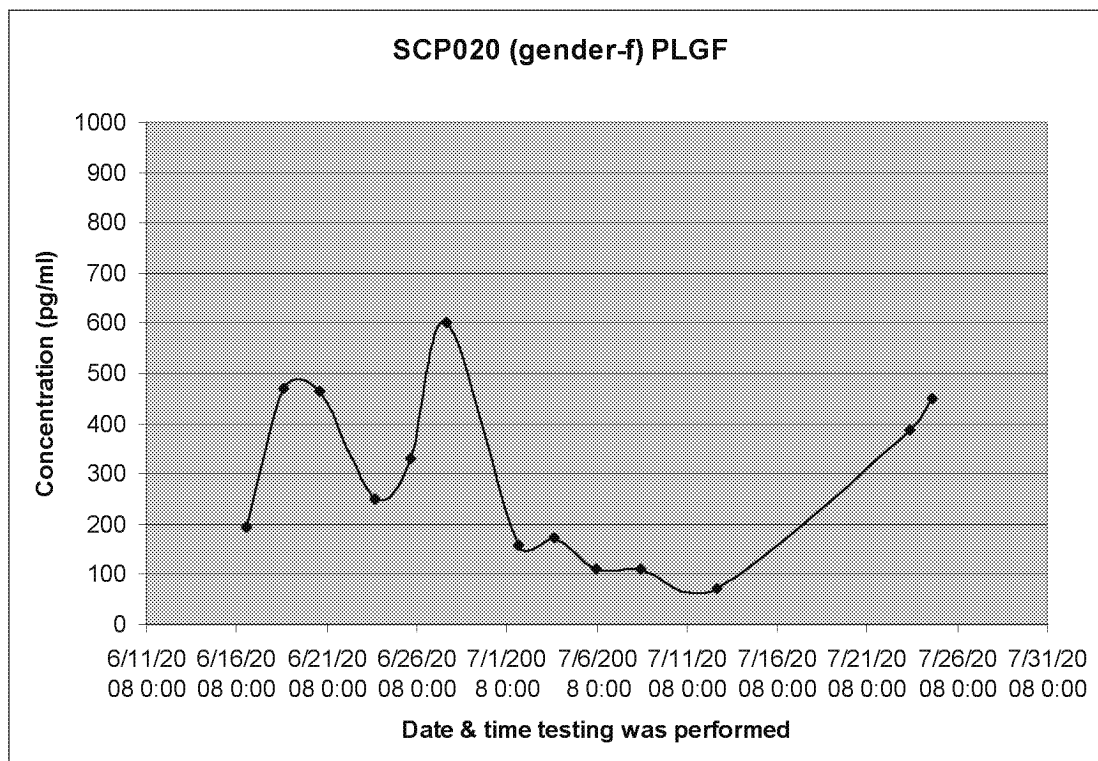


For the patients in whom PLGF is consistently detectable we selected plots as shown below.





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Patient monitoring times and quality of life by gender:

Patient ID	Cancer type	Gender	Time of day when home monitoring was performed (on average)*	Quality of life (as measured by on-screen survey) (on average)*
SCP001	Adenocarcinoma	f	Morning	N/A (Survey was not yet deployed)
SCP006	Breast Cancer	f	Afternoon	7
SCP010	Breast Cancer	f	Evening	8
SCP008	Breast Cancer	f	Late Evening	7
SCP021	Colorectal Cancer	f	Noon-afternoon	8
SCP027	Colorectal Cancer	f	Afternoon	10
SCP029	Colorectal Cancer	f	Afternoon-Evening	not yet available
SCP003	Colorectal Cancer	f	Morning	N/A (Survey was not yet deployed)
SCP017	Lung Cancer	f	Evening	9
SCP026	Ovarian Cancer	f	N/A	N/A
SCP020	Renal Cell Carcinoma	f	Afternoon	6
SCP005	Unknown Primary	f	Afternoon	9



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SCP007	Colorectal Cancer	m	Evening	7
SCP009	Colorectal Cancer	m	Late Evening	7
SCP022	Colorectal Cancer	m	N/A	8
SCP014	Colorectal Cancer	m	Morning	7
SCP019	Colorectal Cancer	m	N/A	N/A
SCP016	Colorectal Cancer	m	Evening	8
SCP031	Colorectal Cancer	m	Afternoon	not yet available
SCP024	Colorectal Cancer	m	Afternoon	9
SCP028	Colorectal Cancer	m	Evening	not yet available
SCP023	Esophageal Cancer	m	Morning	8
SCP030	Gastrointestinal Stromal Tumor	m	Morning	not yet available
SCP012	Liver Cancer	m	Afternoon	10
SCP025	Melanoma	m	Morning	9
SCP002	Neuroendocrine carcinoma	m	N/A	N/A
SCP004	Renal Cell Carcinoma	m	Noon-afternoon	10
SCP011	Renal Cell Carcinoma	m	Morning	9
SCP013	Renal Cell Carcinoma	m	Evening	10
SCP015	Renal Cell Carcinoma	m	Evening	7
SCP018	Tongue Cancer	m	Afternoon	5
* Actual time for each test point and diurnal variations of quality of life can be found online				

Patient compliance with optional on-screen questionnaire was approximately 86% (this number was calculated before the end of the study, therefore final compliance figures may change).



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Patient clinical visit data by age:

Patient ID	Race	Smoking Status	Alcohol Consumption	Age	Weight (pounds)
SCP029	Caucasian	does not smoke now, positive history	None	36	179
SCP010	Caucasian	never smoked	monthly or less	45	165
SCP018	Caucasian	Smoke daily	None	45	181
SCP007	Caucasian	never smoked	None	46	213
SCP008	Caucasian	smoke occasionally	None	46	180
SCP002	Caucasian	never smoked	monthly or less	49	194
SCP016	Caucasian	smoke occasionally	monthly or less	49	167
SCP012	Caucasian	does not smoke now, positive history	None	53	190
SCP015	Caucasian	does not smoke now, positive history	None	53	174
SCP028	Caucasian	smoke occasionally	None	57	262
SCP001	Caucasian	does not smoke now, positive history	None	61	172
SCP027	African American	never smoked	None	62	167
SCP009	Caucasian	never smoked	None	63	221
SCP011	Caucasian	does not smoke now, positive history	monthly or less	63	305
SCP024	Caucasian	infrequent attempts (never developed a habit)	Every day	64	200
SCP023	Caucasian	never smoked	Every day	65	252
SCP005	Caucasian	does not smoke now, positive history	monthly or less	66	160
SCP021	Caucasian	smoke occasionally	monthly or less	66	198
SCP006	Caucasian	never smoked	monthly or less	68	163
SCP017	Caucasian	does not smoke now, positive history	Every day	69	112
SCP013	Caucasian	never smoked	monthly or less	71	230
SCP020	Caucasian	never smoked	None	72	101
SCP026	Caucasian	never smoked	None	73	132
SCP031	Caucasian	does not smoke now, positive history	None	73	134.5
SCP025	Caucasian	does not smoke now, positive history	None	77	184
SCP014	Caucasian	does not smoke now, positive history	monthly or less	78	217.5
SCP022	African American	never smoked	None	82	178
SCP030	Caucasian	never smoked	None	83	182



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Sample of patient clinical blood work by patient ID:

Patient ID	Avg. % Lymphocytes	Avg. Heart Rate	Avg. Total Bilirubin	Avg. Systolic BP	Avg. RBC
SCP001	33.4	67.7	0.7	129.3	3.2
SCP002	34.1	55.0	0.3	161.0	4.3
SCP004	27.8	64.7	0.5	144.7	3.2
SCP005	36.4	75.0	0.2	127.5	3.9
SCP006	29.5	100.7	0.3	112.7	4.3
SCP007	24.0	73.0	0.3	131.3	4.4
SCP008	23.7	84.0	0.4	124.0	5.1
SCP009	25.0	71.5	0.7	133.0	4.5
SCP010	45.3	74.3	0.9	137.8	4.5
SCP011	28.6	82.0	0.6	135.0	4.8
SCP012	28.3	75.5	0.7	122.0	4.0
SCP013	31.1	72.0	0.7	137.0	4.2
SCP014	40.2	81.5	0.4	125.3	4.0
SCP015	35.4	78.3	0.3	147.0	5.0
SCP016	18.0	75.3	0.3	131.3	4.9
SCP017	20.7	89.3	0.4	114.0	4.2
SCP018	23.4	70.0	0.3	133.0	4.8
SCP020	17.9	60.7	0.4	146.0	3.7
SCP021	36.5	91.0	0.4	130.0	4.8
SCP022	23.5	93.5	0.7	123.0	4.0
SCP023	26.3	107.7	0.7	119.7	4.7
SCP024	18.8	83.0	0.7	139.0	3.7
SCP025	33.5	94.0	0.3	143.0	5.2
SCP026	34.6	110.0	0.4	125.0	3.7
SCP027	9.5	70.0	0.7	119.0	3.7
SCP028	21.2	98.0	0.8	125.7	5.2
SCP029	32.6	90.5	0.6	122.8	5.1
SCP030	42.3	72.0	0.4	137.0	3.7
SCP031	16.7	70.0	0.4	145.0	4.3

All individual patient data was profiled as it was generated on the Pfizer-specific secure portal at www.theranos.com; raw data can also be found in the attached excel spreadsheet.

Server and Data Transmission

Approximately 361 cartridge results and 203 optional home surveys from the field were successfully transmitted to the Theranos servers. There were less than 5% transmission errors that required the readers to either retry sending the data or wait until they had a better connection to send the data. All data gathered in the field was transmitted to the Theranos servers. For the first two patients, on-screen surveys were not available. The number of surveys received is smaller than the number of cartridge runs due to the above as well as patients filling only one survey for each of their clinic visits (even though they ran two cartridges per visit). Once surveys



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became available, each cartridge run also asked the user to complete an optional quality of life survey and compliance was very good.

Data distribution by transmission pathway to date		
Direct Internet Connection	Wireless-GSM	Traditional Phone line
5.6 %	90.7%	3.7 %

The only problem encountered with using GSM wireless phone technology was poor signal. The main reasons for poor cellular reception were: dense foliage, metal roofs and poor signal quality due to remote location. In one location (Stewart, TN), there was no cellular coverage at all; therefore the reader used the standard telephone line in order to connect to our servers and report data as it was gathered. All of this patient's logs were received by Theranos servers. In future studies, multiple network providers would be contracted for these areas.

Overall performance of the Theranos System based on Customer Care log:

The customer care line was available to patients 24 hours a day 7 days a week over the course of the entire study (July 07 to October 08). All calls were addressed professionally and all issues were resolved quickly, taking care to minimize the impact on patients and clinical staff.

The types of calls for which patients used the Customer Care line:

- Patient running low on supplies – the solution was to simply ship more of the needed supplies with overnight delivery to make sure patient had enough for the upcoming home tests.
- Patient not knowing how to turn machine on – the solution was to advise the patient over the phone on the procedures outlined in the setup sheet they received and to make sure they have the instrument up and running.
- Patient calling about scheduling an instrument pickup – solution was to schedule one of our representatives to pick up the machine or alternatively to have FedEx pick up the reader if patient was able to place it in the shipping container themselves.
- Patient called about blood transfer question – the solution was to advise the patient to leave the blood transfer device on a flat surface. If this solution was not sufficient, a new batch was shipped to make sure no capillary manufacturer defects were at fault.
- Patient called about instrument not recognizing cartridge – the solution was to ask patient to re-try and call back if problem persisted. The suspicion was that due to poor cellular signal the reader was unable to communicate, and by re-trying it would perform appropriately. There were no subsequent calls from patient.
- Patient called about instrument not being ready due to temperature – the solution was to ask patient to move reader away from A/C units and possible air currents. Patients had moved readers from initial installation location (one moved it to his RV, another into a really hot room) and the temperature extremes affected the readers' ability to maintain desired temperature. The Theranos readers are engineered to control temperature to eliminate variability associated with conventional assays.

The majority of systems deployed in the field performed their duties throughout the entire length of the patient monitoring schedule. One instrument had mechanical issues due to being misused; this happened during new personnel training at TNONC. The instrument was promptly replaced with a new instrument. Another failure occurred due to the instrument being damaged in shipping.



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Although it performed its functions properly for the majority of the patient's schedule it eventually malfunctioned and was also promptly (~24 hours) replaced. Yet another issue was related to the cellular carrier not identifying the instrument. To expedite the process and assure that the clinic was adequately supplied it was decided to replace that instrument with one that was known to work. The problem was later resolved off-line.

Patient Compliance with protocol:

It is hard to estimate the patient compliance with the exact protocol due to the factors out of Theranos' control. In many instances patients re-scheduled their clinic visits and the new appointments were not communicated to us. At the onset of each patient's home monitoring they were provided with a tentative schedule which in many cases changed due to patient's need to travel or inability to keep scheduled appointments. With this in mind, we estimate that patient compliance with protocol was still very good, at approximately 96 % (measured as 80-120% of expected testing completed and received). Given the missing information, a much more accurate derivation would be possible.

Theranos System Assessment by Patients and Clinical Staff:

Patient end of study surveys were sent out to all participants. To date, 17 responses were collected from patients.

Summary of patients' assessment of the Theranos system:

- 88% of patients surveyed found the Theranos System easy to use; no patients found it "very hard" to use.
- 76% of patients found the written instructions to be very informative, with clear directions; 12% did not read instructions
- 91% of patients scored the training given by their Theranos representative either a 9 or 10 (10 being very good training)
- 76% of patients found the Theranos System takes little time to use (scores between 1 and 4 were tallied, with 1 = very little time and 10 = a lot of time)
- 100% of patients found the optional touch screen survey on the Theranos System easy to use, giving scores of either 8, 9 or 10 (10 = easy to use, 1 = hard to use).
- On a scale of 10 to 1 (10 = least painful, 1 = most painful), only one patient gave the blood drawing experience a score of less than 6. 59% felt almost no pain, scoring either a 9 or 10.
- 100% of the patients that responded to the survey gave Theranos Customer Support an excellent or very good rating
- For the majority of patients, the Theranos System worked very well. The major ways of solving the questions patients had were figuring it out on their own or calling the Theranos Customer Care line.
- In the follow-up survey, 100% of patients that responded said they received excellent or very good technical support over the duration of the study.
- Most patients said they prefer monitoring from home (scored 8 through 10) using the Theranos System; 25% were indecisive (scored 4 to 6) when asked whether they prefer going to the clinic or using the Theranos System; only two patients would rather monitor at the clinic.

From the interactions with clinical staff at Tennessee Oncology, the system was:

1. well received and



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2. the client solutions team made a very positive impact on the clinical staff and patients through promptitude and professionalism.

Conclusions:

General:

1. The Theranos System performed with superior performance to reference assays while running in a complex ambulatory environment.
2. The existing Theranos support infrastructure enables on-demand home installation and patient training in extremely rural areas.
3. Patients preferred ambulatory monitoring to clinic visits and liked using the Theranos System.
4. Non-computer literate patients had no issues using the Theranos System.

Technical:

5. Inter-system accuracy is excellent and was demonstrated on a platform with superior performance specifications to reference methods.
6. Calibrations were updated with access to samples from the trial.
7. Good correlations were seen to various commercially available gold-standards.
8. Avastin does not block the Theranos assay.
9. The Theranos System can measure VEGF both free and bound to VEGFR2 and Avastin to better quantify dose-response.

Economic:

10. This 15 month study demonstrated the robust functionality of Theranos Systems. With this validation data, the technology can be applied to significantly cut costs and bring compounds to market faster:
11. More frequent sampling enabled better characterization of longitudinal time-series profiles of angiogenesis protein panels. More accurate insight of the change in rate of those panels over time enables significantly faster and earlier reads on efficacy dynamics.
 - a. See efficacy dynamics trends and correlation to end-points in patient time-course profiles on the Pfizer web-portal at www.theranos.com.
12. Response profiles were seen in this study over 30 day intervals. Historically, these types of correlations have taken up to a couple years to demonstrate, or in some cases, were previously not demonstrable. This time gained facilitates rapid data generation for additions to a compendia and rapid label expansion of existing drugs. Equally, this approach can be used to fast-track approvals of key compounds and at the same time better optimize those compounds with better visibility to achieve the target product profiles.
 - a. One of Theranos' pharma partners is publishing a report which estimates the increased time to market is valued at \$1M per day – making every month quite substantial.
13. Through Theranos Systems, Pfizer will be able to reduce the number of sites, eliminate shipping costs for samples, processing costs, and analytical costs. Based on historical data, implementation of these systems will enable Pfizer to achieve ~50% cost savings over current study spending (previously demonstrated to be \$15M of a \$30M study budget). Equally, through better insight into pathway dynamics, Theranos is demonstrating the ability to reduce the number of patients required to show statistical significance in future studies by 30-50%.

EXHIBIT 43

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

3
4 UNITED STATES OF AMERICA,)
5 Plaintiff,) CR17-00290-RSL
6 v.) SEATTLE, WASHINGTON
7 MUHAMMAD FAHD,) September 16, 2021 -
8 Defendant.) 10:00 A.M.
9) SENTENCING HEARING
10)

11 VERBATIM REPORT OF PROCEEDINGS
12 BEFORE THE HONORABLE ROBERT S. LASNIK
13 UNITED STATES DISTRICT JUDGE

14 APPEARANCES:

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Proceedings stenographically reported and transcript produced with computer-aided technology

1 THE COURT: Good morning. Thank you. Please be seated.

2 THE CLERK: This is the matter of the United States
3 versus Muhammad Fahd, CR17-290-RSL, assigned to this Court.

4 Counsel, please make your appearances for the record.

5 MR. FRANZE-NAKAMURA: Good morning, Your Honor. Francis
6 Franze-Nakamura, Andrew Friedman, and Anthony Teelucksingh on
7 behalf of the United States.

8 THE COURT: Great. Welcome.

9 MR. TEELUCKSINGH: Good morning, Your Honor.

10 MR. ILLA: Good morning, Your Honor. Stephan Illa
11 appearing behind the mask with Mr. Muhammad Fahd. Also with me
12 today is co-counsel, Peter Camiel.

13 MR. CAMIEL: Good morning.

14 MR. ILLA: Mr. Fahd is here with us today in custody,
15 and we are ready for sentencing.

16 THE COURT: Okay. Thanks, Mr. Illa.

17 Now, my first question -- And we also have Christina Lacy
18 from U.S. Probation. Thank you.

19 MS. LACY: Thank you, Your Honor.

20 THE COURT: Is "Fahd" the first name or the last name?
21 It seems like "Muhammad" is the family name. And people have
22 others, like "Asus," like that.

23 Mr. Fahd?

24 THE DEFENDANT: So my full name is Muhammad Fahd Ibrahim
25 Patel, but due to some complications, my passport only has the

1 first two, so that's why it's --

2 THE COURT: Okay.

3 THE DEFENDANT: Yeah.

4 THE COURT: So you're fine with us calling you
5 "Mr. Fahd"?

6 THE DEFENDANT: Yes.

7 THE COURT: Okay. Great. Thank you.

8 All right. We are here for sentencing on Mr. Fahd's plea of
9 guilty to one count of conspiracy to commit wire fraud.

10 In preparation for the sentencing today, I have reviewed the
11 excellent U.S. Probation Report from Ms. Lacy, I have the
12 government's sentencing memorandum from the triumvirate of the
13 U.S. Attorneys, which included exhibits attached to it, including
14 the declaration or affidavit of Alford Carter, the AT&T
15 representative, about law. I also have a motion for entry of an
16 order of forfeiture from the government and a government motion
17 to seal and a government supplemental sentencing memorandum with
18 an exhibit from that. I have some tape recordings of a phone
19 call between Mr. Fahd and one of the individuals. I have the
20 defendant's sentencing memorandum which included letters from
21 many of his relatives in support. I have the defendant's
22 memorandum regarding loss amount for sentencing purposes. I have
23 an Exhibit C to the defendant's sentencing memorandum, which has
24 some beautiful pictures of Mr. Fahd with his family. And I think
25 that's everything I have.

1 Do I have everything from the government? Did I list it all?

2 MR. FRANZE-NAKAMURA: I believe so, Your Honor. It is
3 an extensive list.

4 With the presentence report, there were a number of
5 objections filed by the defense. We ask those be considered as
6 well.

7 THE COURT: Okay. And then, Mr. Illa, did I list all
8 the things that you wanted me to consider?

9 MR. ILLA: You did, Your Honor.

10 This morning I took the precaution of copying the video,
11 which was on a link in our sentencing memorandum. I copied it
12 onto a disc and gave it to the clerk as Exhibit D. I did that to
13 make the record clear because I realized, to my horror, that the
14 internet is not unchanging and we need to make sure that, in the
15 future, if somebody wants to see what it is that I asked the
16 Court to look at, they be able to look at it.

17 THE COURT: Okay.

18 MR. ILLA: I gave a copy to the government as well.

19 THE COURT: All right. Thank you, Mr. Illa.

20 So have you had an opportunity to go over the government
21 reports with your client and make any additions or corrections?

22 MR. ILLA: The government reports with respect to?

23 THE COURT: The sentencing recommendations.

24 MR. ILLA: Yes, Your Honor, we have.

25 THE COURT: Okay. And, Mr. Fahd, are you ready to

1 proceed to sentencing today?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: All right. We will start with
4 Mr. Franze-Nakamura.

5 MR. FRANZE-NAKAMURA: May it please the Court. For over
6 seven years, Muhammad Fahd dedicated his life to cybercrime. He
7 was the mastermind and driving force behind a hacking group that
8 sought to breach AT&T's security in order to illegally unlock a
9 massive number of cellular phones for profit. Mr. Fahd was
10 motivated by greed. He had a singular focus on lining his
11 pockets while ripping off AT&T.

12 The evidence before the Court does not paint a charitable
13 picture of Mr. Fahd. In fact, the evidence shows again and again
14 that Muhammad Fahd cares only about Muhammad Fahd. He did not
15 care that what he was doing was highly illegal and would cause
16 great financial harm. He did not care that both law enforcement
17 and AT&T had intervened to shut down the first part of his
18 unlocking scheme. He did not care about the young people -- Kyra
19 Evans, DeVaughn Woods, Marc Sapatin -- all of whom he exploited
20 and put repeatedly in harm's way. He did not care even about his
21 long-time friend and personal assistant, Ghulam Jiwani, when they
22 were arrested in Hong Kong, particularly when he made a cruel
23 attempt to cast Mr. Jiwani as the mastermind behind this scheme.
24 And sitting here today, Your Honor, Mr. Fahd does not care about
25 accepting full responsibility for his actions; he does not care

1 about making restitution to the central victim in this case.
2 Again and again, Muhammad Fahd has shown he only cares about
3 himself. The defendant's past history indicates that he will
4 cheat, lie, exploit, betray again and again. This is a man who
5 simply does not care about the financial and the human
6 consequences of his actions.

7 Now, I realize there's a great deal of briefing before the
8 Court. The government's briefs address virtually every aspect of
9 this case and refute the objections that were made to the
10 presentence report. One of the key issues in this case has been
11 the loss issue. And Mr. Friedman has been working tirelessly on
12 that issue and has submitted dozens and dozens of pages and
13 exhibits for your review showing why AT&T's calculation is both
14 highly conservative and highly accurate.

15 If the Court has any questions about loss, restitution,
16 forfeiture, I would propose that Mr. Friedman address those now
17 before we turn to the sentencing factors.

18 THE COURT: Okay. Thanks, Mr. Franze-Nakamura.

19 Mr. Friedman, one question that I have is, you know, part of
20 the way we get to the loss is AT&T has to raise its prices to
21 make up for profit that it should have had, that it didn't have.
22 How does that calculate in there to say, okay, they lost this
23 much, but they went ahead and charged their clients this much to
24 make up for it? So are they really down?

25 MR. FRIEDMAN: Your Honor, I think that's not part of

1 the loss calculation AT&T has put forth. It's not something
2 we're asking for. I think it would probably be beyond the power
3 of the Court to consider that.

4 To the extent that we mentioned that in prior proceedings
5 involving other defendants and in the briefing here, it's really
6 just to show that -- it's easy to look and say, "AT&T is a big
7 corporation, oh, well" -- it's to show the Court what happens
8 when AT&T suffers a loss, what its natural reaction is. So it's
9 a consequence of that, it's an effect; it's not part of this loss
10 calculation.

11 THE COURT: And what about the defense point that if a
12 corporation suffers a loss like that, it has some obligation to
13 report it?

14 MR. FRIEDMAN: Your Honor, I think the law there is
15 probably going to be very complicated. It's going to be --
16 Corporations do have to report things that are material. And
17 that's a hard standard. And so there would be a question of: Is
18 this material or is it material in any particular period?
19 Because it spanned years for AT&T. And I would have no expertise
20 in that. I'm sure that that would be a difficult question for
21 AT&T.

22 I think it's important also to note that the loss calculation
23 really has been -- AT&T was able to do that much later than this
24 happened. So, really, 2020 is when they were going through
25 finalizing and figuring out what the loss was and seeing how big

1 it was. And if you figure out in 2020 that you had a loss, you
2 know, in much of 2012 and '13, that probably is material to
3 whether you report it or not.

4 I think the evidence in this court -- the evidence in the
5 record here shows very clearly that that is a reasonable estimate
6 of the loss that they suffered. Whether it should have been
7 reported or not I think is a question that's beyond any of our
8 ability to know or something for the Court to consider.

9 THE COURT: Okay.

10 MR. FRIEDMAN: And, you know, maybe now that it's done,
11 maybe it will be. I don't know.

12 THE COURT: So there's a loss amount which goes to the
13 guideline calculation and then there's an amount to get back from
14 Mr. Fahd which goes towards restitution?

15 MR. FRIEDMAN: Correct, Your Honor.

16 THE COURT: Okay. Great. Thanks.

17 MR. FRIEDMAN: And, Your Honor, if I could, if I could
18 just make one brief --

19 THE COURT: Oh, sure.

20 MR. FRIEDMAN: I'm happy to answer any detailed
21 questions if the Court has them.

22 I think when you look at this, and it's a mind-boggling,
23 complicated calculation the agency went through, and one of their
24 analysts, Ana Friedrichs, spent months and months working on it
25 and doing it, and we submitted it to the Court. And I don't

1 think it's productive -- I don't know if the Court has looked at
2 it or not, but I don't think it's productive to wade through that
3 spreadsheet, so I wouldn't ask the Court to do that, but it gives
4 an idea of the scope and the complexity of the calculation. But
5 it is -- you know, AT&T put a lot of work in and they did a
6 very -- a conservative but an accurate and detailed calculation.
7 It does show that loss. And so we're asking the Court to rely on
8 that. We think it should.

9 We think it's important also to step back for a second,
10 though, and say, look, you know, it's easy to get lost in all of
11 those details, but let's look at what's really going on here.
12 And the Court only has to make a reasonable estimate of loss.
13 And we know that Mr. Fahd unlocked nearly 2 million cell phones,
14 that he was responsible for doing that through the people who
15 worked for him. We know that cell phones cost hundreds of
16 dollars, most often probably in the 500-to-1,000-dollar range.
17 And I think it's very reasonable for the Court to assume that
18 when you unlock a cell phone, the loss to AT&T is going to be a
19 measurable portion of that. And so as long as the Court
20 concludes that the average loss is at least \$133 -- I think
21 that's the figure -- you're at the \$200 million loss. And so
22 common sense tells you that that is really the scope of the loss
23 in this case. The Court then has AT&T's calculation to say,
24 "Hey, how do I quantify it, what's the real number?" But common
25 sense tells you this is basically the measure of this case, this

1 is the number the Court should be working with.

2 THE COURT: And do you feel, since the government has
3 the burden of proof here, that the standard is preponderance of
4 the evidence, or clear and convincing evidence?

5 MR. FRIEDMAN: We would concede it's clear and
6 convincing, Your Honor, but I think the evidence meets that
7 standard.

8 THE COURT: Okay. And that's because of the dramatic
9 impact it has on the guidelines?

10 MR. FRIEDMAN: Yeah. I think the case law that
11 Mr. Camiel cited, certainly those cases all say that. I think
12 some of that case law evolved during a time when guidelines were
13 binding, and so I know there was a period when the government
14 argued that, well, under 9 -- 90, 99 percent, stuff like that.
15 We're not taking that position. We agree with clear and
16 convincing, Your Honor, and we think we have met that easily.

17 THE COURT: Thanks, Mr. Friedman.

18 MR. FRIEDMAN: Thank you, Your Honor.

19 THE COURT: Mr. Franze-Nakamura can come back up now.

20 MR. FRANZE-NAKAMURA: Thank you, Your Honor.

21 So with respect to the sentencing factors, there are three
22 points that I would like to emphasize today. First, the need for
23 deterrence in cybercrime cases involving leaders of cybercriminal
24 enterprises; second, Mr. Fahd's high risk of recidivism; and,
25 third, the human cost and consequences of what Mr. Fahd did.

1 And, again, it's worth noting that it is extremely rare to
2 identify, arrest, and sentence a top-level leader of a
3 cybercriminal enterprise. Cybercrime has become one of the
4 leading threats to the American public. As the world has become
5 more integrated and more connected through the use of technology
6 and the internet, we have become in many ways more vulnerable to
7 attack. Increasingly, foreign hackers are attacking our
8 interests, and in the process, they are making fortunes at our
9 expense. These cyberattacks impact numerous victims, including
10 breached companies, financial institutions, and small businesses,
11 and, most importantly, ordinary Americans who ultimately bear
12 the cost of cybercrime.

13 The illegal costs of cybercrime are astounding. Some
14 estimate that cybercriminals generate over \$1.5 trillion a year
15 in illegal proceeds. This is more money than the illicit drug
16 trade. This is more money than traditional organized crime.
17 Cybercrime even makes more money than the combined revenue of
18 Apple, Amazon, Facebook, Microsoft, and Tesla. So there should
19 be no question that, in the modern age, cybercrime has become a
20 true economy of scale.

21 Relatively small groups of hackers can have a devastatingly
22 large impact when they leverage their skills and the technology
23 to breach U.S. companies, and that's exactly what Mr. Fahd did
24 here. Mr. Fahd leveraged his access to AT&T's computer systems
25 and his skills and his custom malware and hacking tools in order

1 to carry out fraud on a massive scale. He caused over
2 \$200 million of damage all from behind his keyboard in Pakistan.
3 There should be no question that he is a very sophisticated
4 criminal.

5 In addition to being an accomplished hacker, he's well versed
6 in masking his identity, in money laundering, and avoiding arrest
7 by U.S. authorities while he travels internationally. Needless
8 to say, investigating someone like Muhammad Fahd takes a massive
9 amount of resources and patience from law enforcement. It is so
10 rare to have someone so sophisticated, who played such a major
11 role in a cybercriminal enterprise, extradited and to have them
12 appear in court. It is a testament to the skill and the patience
13 of the investigators for the Secret Service and the IRS who
14 worked tirelessly on this case for almost eight years now.

15 It's no surprise that when Mr. Fahd was arrested and
16 extradited, this case garnered a great deal of media attention.
17 It's an important event when a top-level leader like Mr. Fahd is
18 held accountable. In fact, there's a special audience outside of
19 this courtroom, outside of this country, that is paying special
20 attention to this case. This audience is comprised of people
21 involved in the underground unlocking business and in the
22 underground business that tracks stolen phones. This is also
23 composed of individuals who are contemplating whether or not to
24 start up a hacking group or a cybercriminal enterprise. It is
25 critical that the sentence imposed today shows this audience that

1 they face severe consequences not just for the past crimes but
2 also for any future crimes that they may choose to undertake. A
3 15-year sentence for Mr. Fahd will be a strong statement to this
4 audience that the costs of engaging in cybercrime are just too
5 high to be worth it.

6 In thinking about general deterrence, it's important to view
7 Mr. Fahd in context in relation to the three cases for hackers in
8 this district. As discussed in the government's sentencing
9 memorandum, the Schrooten, Seleznev, and Hladyr cases all provide
10 important benchmarks. Schrooten received a 12-year sentence,
11 Seleznev received 27 years, and Mr. Hladyr received 10 years.
12 Like Schrooten and Seleznev, Mr. Fahd was the leader, he was
13 the mastermind behind the cybercriminal enterprise. And like
14 Mr. Seleznev, Mr. Fahd made millions of dollars in proceeds and
15 undertook extensive efforts to obstruct justice.

16 It's important to note that the scheme at issue in Schrooten
17 was relatively small compared to the scheme that we're dealing
18 with here. It only involved about 100,000 stolen payment card
19 numbers. In contrast, Mr. Fahd unlocked over 1.9 million phones.
20 He operated his enterprise for seven years and persisted in
21 operating that enterprise despite knowing of law enforcement's
22 efforts to shut it down. Accordingly, Mr. Fahd should receive a
23 sentence that is significantly greater than the sentence imposed
24 in Schrooten.

25 The government submits that a sentence of 15 years strikes

1 the appropriate balance and avoids a sentencing disparity.

2 Moreover, a 15-year sentence will send a powerful message to all
3 of the would-be hackers that are out there paying attention to
4 this case that they will face just punishment in the United
5 States for any crimes that they commit.

6 This leads to the second point, Your Honor, the high risk of
7 recidivism posed by Mr. Fahd. We know that he is a high risk for
8 multiple reasons, but I want to underscore two of those reasons.
9 First, we saw what happened in 2013, when both law enforcement
10 and AT&T intervened. Mr. Fahd was momentarily scared. We saw
11 him running Google searches about his risk of extradition from
12 Pakistan, but then he made the conscious decision to return to
13 this scheme, to restart it, to bring everybody back in.

14 It's one thing to launch a single cyberattack against a
15 victim; it's an entirely different matter to attack that same
16 victim over and over again, despite an intervention by law
17 enforcement. We just don't see that very often. He did this
18 over the course of seven years. Seven years of trying to hack
19 and breach the same victim. This shows us just how ambitious and
20 relentless Mr. Fahd is.

21 And I will note, Your Honor, there are absolutely no
22 mitigating factors in this case. There are only aggravating
23 factors. There's no meaningful explanation for why Mr. Fahd did
24 the terrible things that he did. And, you know, the only
25 explanations that we have seen are his overwhelming greed and his

1 natural propensity towards criminal activity.

2 The second reason we know that he poses a high risk of
3 recidivism is that he is not genuinely remorseful for his
4 actions. He's not accepted full responsibility for the loss that
5 he caused and the proceeds that he obtained. Now, Mr. Fahd, in
6 the sentencing documents that were filed, he really does not
7 raise a meaningful challenge to AT&T's loss calculation; he
8 doesn't offer a meaningful alternative. Instead, he wants the
9 Court to limit its loss calculation to just one percent of the
10 actual loss in this case. One percent. He's only willing to
11 acknowledge one percent of the harm that he caused, and I would
12 submit that he's only one percent remorseful.

13 Furthermore, there should be no dispute that Mr. Fahd made an
14 enormous amount of money from the hacking scheme. At the time of
15 his arrest, he is flying regularly, internationally, either
16 business or first class, and staying at Ritz-Carltons and fancy
17 hotels all over the world. He came from a well-off family and he
18 made millions more from cybercrime. We have every reason to
19 think that he has millions of dollars waiting for him when he
20 gets out of jail.

21 Now, not surprisingly, Muhammad Fahd has not made a
22 meaningful effort to bring those proceeds into the United States
23 to make restitution. Pursuant to the plea agreement, Mr. Fahd
24 did sit for an interview regarding his finances, and this was
25 just a few months ago. During that interview, he was completely

1 unhelpful. Although he said he would sign documents that were
2 given to him by the government, he made absolutely clear, crystal
3 clear, he would make no effort on his own to identify his assets
4 and to bring them into the United States for restitution.

5 Despite his comic claims during that interview that he knows
6 nothing about his finances and that he can't remember anything
7 about how he used all that money in the past, Mr. Fahd knows he
8 is still a very wealthy man. He knows that those proceeds have
9 been moved to other overseas accounts. He knows he can get his
10 hands on that money once he's released. He has expressed
11 complete contempt for the notion that he should pay anything for
12 his crimes.

13 Again, Muhammad Fahd only cares about Muhammad Fahd. He does
14 not come before the Court as a genuinely remorseful man who has
15 realized the harm that he has caused. Instead, his past actions
16 and his ongoing contempt to the notion of restitution shows that
17 this is a man who wants to be released so he can continue to reap
18 the ill-gotten rewards of his past crimes. A 15-year sentence is
19 needed, therefore, to protect the community from Mr. Fahd and his
20 high risk of recidivism.

21 The third and final point, Your Honor, deals with the human
22 consequences of Mr. Fahd's crimes. There should be no question
23 today that there was a massive financial harm caused from the
24 scheme at issue. And, in fact, the victim has spent months
25 conducting a very detailed and accurate calculation of that loss.

1 And that's over \$200 million of loss. But there's a very
2 significant aspect of the harm that Mr. Fahd caused that goes
3 beyond the financial loss, and that's the harm he caused to the
4 impressionable young people that he exploited and extorted: Kyra
5 Evans, DeVaughn Woods, Marc Sapatin. They all deserve to have
6 their names mentioned today. They all deserve to be recognized.
7 None of these people had any criminal history. None of them
8 would have been involved or wrapped up in something like this
9 except for Muhammad Fahd. They had promising careers ahead of
10 them, and now they have criminal convictions, they have enormous
11 restitution obligations. And Marc Sapatin is going to jail for
12 18 months all because of Muhammad Fahd. Muhammad Fahd does not
13 care about these individuals, does not care that he left an
14 indelible mark on their lives. He only cares about himself.

15 The way that he recruited, groomed, and outright threatened
16 these young people tells us a lot about his character. Quite
17 frankly, we don't usually see cybercriminals like Muhammad Fahd
18 who combine their technological expertise with old-school
19 techniques like bribery, intimidation, and extortion. We don't
20 see people here, as patent groups, who want to go to such
21 extremes to create a threat of personal harm. As the Court has
22 seen from the evidence, including among many other things, the
23 communications in our sentencing memorandum, recorded calls, and
24 the statements from prior defendants, Mr. Fahd went to extremes
25 to create a frightening image of himself. He portrayed himself

1 as one part super hacker and two parts thug. He was deliberate
2 in the way he controlled them through fear, and he masterfully
3 made clear that there would be harsh consequences for anyone who
4 crossed him. Just think of the power disparity between the folks
5 who are working at AT&T who didn't have much education and the
6 individual who was a very talented hacker, operating overseas,
7 who could cause such harm to these people.

8 One example of how he threatened them was the conversation
9 with Kyra Evans where he bragged about threatening to put a
10 half-million-dollar hit on his ex-girlfriend simply because the
11 ex-girlfriend dumped him. Now, there's not a hint in the
12 Schrooten case or the Hladyr case of this type of threat of
13 physical violence, nor is there any evidence in the Schrooten
14 case and Hladyr case that those defendants ruthlessly tried to
15 exploit young people, and those defendants got 10 years and 12
16 years, respectfully. Mr. Fahd deserves much more.

17 The government respectfully requests that when considering
18 the sentence in this case, the Court bear in mind not just the
19 \$200 million loss, but also the substantial harm that Mr. Fahd
20 caused the young people he exploited and extorted. All of these
21 people deserve the satisfaction of knowing that their rights and
22 their interests have been vindicated today.

23 In conclusion, the United States asks the Court to impose a
24 sentence of 15 years, to adopt AT&T's conservative and accurate
25 loss calculations, and impose restitution in the amount of

1 \$200,620,698.

2 The government asks the Court to help the government continue
3 its efforts to disgorge Mr. Fahd of his illegal proceeds by
4 entering a forfeiture judgment in the amount of \$5,338,430.

5 A 15-year sentence is just and appropriate under the
6 sentencing factors. It takes into consideration Mr. Fahd's
7 leadership role, it takes into consideration the concerns of
8 specific and general deterrence, and, most importantly perhaps,
9 it takes into consideration the need to vindicate the rights of
10 the victims.

11 Unless the Court has any questions, we rest on the arguments
12 in our filings. I do note, Your Honor, that AT&T does have a
13 representative here today who would like to address the Court
14 pursuant to the Crime Victims' Rights Act.

15 THE COURT: And that's Petra, is it Dungan?

16 MR. FRANZE-NAKAMURA: Yes.

17 THE COURT: Okay. We should do that now then.

18 MR. FRANZE-NAKAMURA: Okay.

19 THE COURT: Could you come forward, please?

20 And could you, at the beginning, say your name and spell your
21 last name for the court reporter, please?

22 MS. DUNGAN: Sure. Petra Dungan, D-u-n-g-a-n.

23 THE COURT: Thank you, Ms. Dungan. Go ahead.

24 MS. DUNGAN: Thank you for providing me the opportunity
25 to speak today. My name is Petra Dungan, and I am a senior

1 investigator for AT&T.

2 In my role as senior investigator, I investigate employees
3 who have violated our internal code of conduct or committed a
4 criminal act against AT&T. I have over 25 years investigative
5 experience not only with AT&T but also as a detective
6 investigator at the Manhattan DA's Office and an investigative
7 analyst at the New York Stock Exchange.

8 In 2013 and again in 2017, I worked on the investigations of
9 phones being unlocked in massive quantities at our Bothell call
10 center. In 2013, I participated in the interviews/investigations
11 basically as a secondary lead. During that time, I worked
12 extensively with our forensics department as they tried to
13 determine how these unlocks occurred.

14 I interviewed both Marc Sapatina and Kyra Evans, former
15 employees. At the time, both Marc and Kyra were highly regarded
16 by their management, and management struggled to reconcile why
17 they would risk their stable positions at AT&T to take part in
18 any illegal activity, particularly one that not only put their
19 jobs at risk but victimized AT&T and their families as well.

20 At the time I interviewed them, AT&T had not determined how
21 the unlocks had occurred. I specifically recall speaking with
22 Kyra Evans. She was young, nervous, and expecting a child.
23 Although she denied any knowledge of the scheme, which we now
24 know is not true, I believe she came to know the scope of the
25 scheme and the subsequent consequences during this interview. We

1 later learned that Kyra and Marc had been recruited by a person
2 identified as Frankie, who we know now is Mr. Fahd. After their
3 employment ended, several of the employees came forward and said
4 that Marc Sapatina had tried to recruit them. These employees
5 declined the offer and thought nothing of it until they were able
6 to put two and two together and correlate his loss of employment
7 with everything that was happening and realized that this was an
8 attempt to recruit more people into this criminal activity.

9 In 2017, AT&T again began to see massive unlocks associated
10 with the identifications and the names of employees at the
11 Bothell call center. I was assigned to lead this investigation;
12 however, this was truly a team effort. We recruited numerous
13 senior investigators, directors, analysts, IT specialists, as
14 well as guidance from our legal department.

15 In 2017, it appeared the unlocks occurred late at night from
16 a particular computer IP address at our Bothell call center,
17 about 15 miles from my residence. There were nights that my
18 now-former peer -- now retired -- and I responded to the Bothell
19 call centers at all hours when it appears these unlocks were
20 happening. We remained on call for several weeks ready and
21 willing to try to catch the culprit processing the unlocks. We
22 sacrificed time that would normally be spent with family. We
23 would search the call center top to bottom, determine whether the
24 people we encountered had a legitimate business purpose to be
25 there, make notes of any vehicles in our parking lot, all of this

1 in a quest to figure out what was happening. These are the early
2 days. We had no idea of the malware and the USB port at that
3 time.

4 I interviewed every employee whose AT&T ID, which is their
5 identification, and password were using the unlock scheme. At
6 AT&T, no one wants to sit down with Asset Protection. When the
7 employees are told Asset Protection wants to speak with them,
8 generally they get nervous or think they're going to lose their
9 job. Fortunately, every single employee was cleared that I spoke
10 with at that time; however, the experience was not without stress
11 to them and uncertainty. Because, again, at this time, we had no
12 idea of DeV Vaughn Woods' role or the USB port or the malware.

13 In 2017, one night -- one of the nights we got pinged
14 indicating the unlocks were in progress, I went to the Bothell
15 call center. I searched every floor for anyone who should not be
16 there. I found DeV Vaughn Woods there. I knew DeV Vaughn. He had
17 been a trustworthy and ethical employee. He had been one of
18 those employees that lived by "See something, say something,"
19 to protect the company.

20 The moment he saw me, his face changed. I walked over to him
21 and engaged in small talk, and he was extremely nervous. The
22 next day I added his name to the list to be investigated. As we
23 now know, he was very much involved with Mr. Fahd and the unlock
24 scheme. I could tell from his face on that night that he knew it
25 was just a matter of time before the connection would be

1 uncovered. It is unfortunate and sad in some ways that employees
2 who had solid employment, with room for growth and opportunities,
3 were lured into the scheme. I wonder then and I wonder now what
4 persuasive powers Mr. Fahd had to convince them, formerly loyal
5 employees, to risk not only their jobs but personal integrity as
6 well.

7 In 2017, it came with relief that we were able to uncover the
8 extent of the scheme and the role DeV Vaughn Woods played and we
9 were able to bring our findings to the Secret Service and the
10 U.S. Attorney's Office. This was just the beginning of
11 determining the financial impact which yet had another team
12 working long hours on this monumental task.

13 AT&T is an enormous corporation, and with most large
14 companies, at times there is a tendency to forget that it relies
15 on people to make it run, to protect our brand, and come in every
16 day with a strong work ethic. I am one of many employees who
17 spent hours, days and nights, sacrificed family time and juggled
18 obligations, both professional and personal, to be a part of this
19 investigation and resolve this matter.

20 It is my hope that the employees who worked diligently on
21 this matter to protect our brand, customers, and company are not
22 forgotten as you make your decision today regarding Mr. Fahd.
23 AT&T respects the decision of the Court in sentencing the
24 defendant and strongly believes that he should be held
25 responsible and punished to the fullest extent of the law.

1 Thank you.

2 THE COURT: Thank you very much, Ms. Dungan.

3 And the government has completed its presentation, correct?

4 MR. FRANZE-NAKAMURA: Yes. Thank you, Your Honor.

5 THE COURT: Okay. Mr. Illa.

6 MR. ILLA: Thank you, Your Honor.

7 I must say, Your Honor, I'm at a bit of a loss because in
8 nearly 40 years of defending criminal cases, I don't think I have
9 ever had one where I went to a sentencing without any mitigating
10 factors at all. And yet, minutes ago, I heard that there are no
11 mitigating factors in this case whatsoever and, in fact, there's
12 only aggravating factors. What that means to me is that this
13 must be the worst case ever. I don't agree.

14 I would like to start with the loss amount. I brought
15 Mr. Camiel with me to deal with that. If I may?

16 THE COURT: Sure.

17 MR. ILLA: Thank you, Your Honor.

18 THE COURT: Yeah.

19 MR. CAMIEL: Thank you, Your Honor.

20 When we challenged the loss amount, this \$200 million loss
21 put forth by the government, in no way whatsoever is that a
22 reflection on Mr. Fahd's acceptance of responsibility. That's
23 the lawyers doing their job, analyzing the government's evidence,
24 and it says nothing about his degree of remorse or acceptance of
25 responsibility for what he did. But the government has come

1 forward with this \$200 million loss amount, and they presented us
2 with an executive summary that had been prepared and an affidavit
3 from Mr. Carter. We looked at that and had trouble understanding
4 it and so we asked to be able to interview some of the people
5 involved in creating that and making those determinations. We
6 asked for the underlying data that was used so that we could take
7 a look at it, to see whether or not it seemed reasonable and
8 whether or not there was any challenge to it. And once we got
9 the data, including the spreadsheet, what's called the "Final"
10 spreadsheet, and looked at it, we came to the conclusion that
11 while they did suffer loss, there's no doubt about it, it's
12 dramatically overstated based on their own data.

13 And just to back up for a minute. I appreciate that the
14 government has accepted that they have the burden by clear and
15 convincing evidence to show this Court that the loss that they're
16 proffering can reasonably be determined. And from Mr. Carter's
17 affidavit, what the Court heard was that during the time period
18 at issue here, there were about 50 million phones that were
19 unlocked, and from that universe of unlocked phones, they had
20 somebody go through and analyze, and they determined there were
21 about 1.8 to 2 million unauthorized unlocked phones. And we're
22 not challenging that number. They determined that based on the
23 timing of the unlocks and the employees that were involved or the
24 employee numbers that were involved. But from that, that smaller
25 universe of the 1.8 million unlocked phones, there was reference

1 to a random sample that they took. And, initially, we were
2 trying to find out how random was the sample and how did they
3 determine which ones to look at and which not to look at, and we
4 could never get to the bottom of that because nobody could answer
5 that question. None of the people we interviewed could answer
6 the question. The executive summary and the spreadsheet don't
7 tell us that. But just taking that, those 50,000 unlocked phones
8 that they call a random sample, if that's truly representative of
9 what happened when you're looking at loss amount, then the first
10 thing that is evident, that the government seems to completely
11 ignore, is that for 56 percent of that 50,000, there was no loss
12 at all. That's what the executive summary and Mr. Carter's
13 affidavit show us. And so from that 50,000 that they randomly
14 sampled, they had 22,000 that they claimed they lost money on,
15 but not the other 28,000. But when the government asks for the
16 \$200 million loss amount to be found by the Court and they show
17 you spreadsheets and affidavits, they keep referring to
18 1.8 million phones, as if they lost money on every one of those
19 phones, when their own data indicates that they didn't. And so
20 that's the first thing that shows that the loss is dramatically
21 overstated. They determined a loss per phone, and they
22 multiplied it times the 1.8 or 1.9 million. But their own
23 witness has indicated that that's not what happened.

24 But we looked further, we dug a little deeper, because we got
25 this "Final" spreadsheet, and we looked at it. And Mr. Friedman

1 talked about how this is mind-boggling and it's very complicated.
2 And that may be, but the Court is still asked to consider this.
3 And because it might be complicated isn't a reason to just accept
4 what the government puts forth without scrutinizing it. And so
5 that's what we did.

6 As we went through that spreadsheet -- And one of the
7 attachments that I put forth with my memorandum about loss shows
8 pages from the spreadsheet, and one of the columns in the
9 spreadsheet shows why contracts were canceled. Now, that's all
10 information that came from AT&T records. And what it showed us,
11 as we went through it, was that they were including in the loss
12 amount thousands and thousands of phone contracts that were
13 canceled not because they were unlawfully unlocked but for other
14 reasons, where the customer either didn't make any payments at
15 all right after they bought the phone and AT&T immediately
16 canceled their contract or the customer moved or was deceased or
17 was in bankruptcy or, for some other reason, the phone contract
18 was canceled before the phone was unlawfully unlocked.

19 And just to take an example. If I bought a phone from AT&T
20 and I signed a contract, a two-year contract, to be paying them,
21 and then I got ahold of AT&T shortly after that and said, "I'm
22 moving out of the area or I'm switching to another provider and
23 so I'm canceling my contract," that revenue that AT&T was going
24 to receive from me is now gone, and it has nothing to do with the
25 phone being unlawfully unlocked.

1 And then later, if that phone that I had, if I throw it away
2 or give it away and somebody else has it unlocked through this
3 unauthorized unlocking scheme, the money that AT&T was going to
4 make from that contract is already gone, but they included all of
5 that in their loss-amount calculation, and so it's greatly
6 overstated.

7 And while I appreciate that this was a difficult endeavor for
8 AT&T to go back and try to figure this out, they did, they are
9 the ones who created the spreadsheet. It's their data. And it's
10 not something -- Nobody is claiming that these reasons that the
11 contracts were canceled were put in there by somebody involved in
12 the fraud scheme. That was information that AT&T put in for
13 each contract when they determined at the time the contracts were
14 canceled what the reason was, and they attributed those reasons.

15 Now, some of them in that spreadsheet say that they're fraud,
16 but there are all different kinds of fraud that are listed. But
17 the bottom line, and I guess what I'm getting at is, it's not our
18 burden to go through and say, "Well, we ran the numbers ourselves
19 and the loss should be this and not that." It's the government's
20 burden to prove by clear and convincing evidence what a
21 reasonable determination of the loss amount is. And it's very
22 clear from their own evidence that the numbers they've used are
23 greatly overstated and include far more than what should be
24 attributed to what Mr. Fahd should be held responsible for.

25 And this makes a big difference at least under the

1 guidelines, which aren't binding on the Court. But the reason
2 we're talking about clear and convincing evidence is it's a
3 ten-point difference. And what the guidelines do tell us is if
4 the loss can't reasonably be determined, you have another way to
5 use the guidelines to determine an offense level, and that's to
6 look at gain. And that's what we're suggesting the Court can do.

7 Now, the government also threw in there as, I guess, an
8 alternative, this application note. And, once again, when they
9 used their application note, where they're saying you should do
10 \$100 a phone, they're back at that 2 million phones, when we know
11 that only 44 percent suffered any loss at all.

12 But, more importantly, the Sixth Circuit said -- and it
13 appears the Ninth Circuit is at least considering it because
14 they've asked for more briefing on the issue -- that the
15 application note is unlawful because it goes beyond what is
16 allowed in an application note. And so we don't think there's
17 any authority for the Court to go that direction and to determine
18 loss based on that.

19 Those are the only comments that I'm going to make. I've
20 covered it in our memorandum, but if Court has questions, I'm
21 happy to --

22 THE COURT: No. I appreciate that. Thanks, Mr. Camiel.

23 MR. CAMIEL: Thank you, Your Honor.

24 THE COURT: Your memo was very helpful.

25 All right. Back to Mr. Illa.

1 MR. ILLA: Your Honor, I'll pick up where I left off,
2 which is the issue of mitigation. The government, by taking the
3 position it has at this hearing, apparently is now objecting to
4 probation's conclusions. Ms. Lacy found that Mr. Fahd's lack of
5 criminal history and difficult upbringing warranted a
6 below-guideline sentence. She describes how his childhood was
7 filled with neglect and emotional trauma. He witnessed violence,
8 endured physical and verbal abuse because of his race, and
9 experienced financial hardship. He's never had counseling to
10 cope with these emotional issues. That's what probation
11 concluded.

12 Your Honor, we submit that there are mitigating factors in
13 this case. And I'm no stranger to rhetorical excess, this Court
14 knows, and when you get going, sometimes you push beyond your
15 headlights. And I forgive the government for that because I'm
16 guilty of it too. But that wasn't the only instance. The
17 government came very close to saying outright that they're now
18 taking the position that Mr. Fahd is not taking responsibility
19 for this offense. I didn't hear them say it directly, but they
20 certainly implied it. That would be a change in their position.
21 And I submit that Mr. Fahd has accepted responsibility. He's
22 done it quite clearly. And, again, I'll rely upon Ms. Lacy's
23 report. Her conclusion, again, was that he did express remorse
24 for committing the offense and wants the opportunity to become a
25 better person. Under those circumstances, Your Honor, acceptance

1 is something he's demonstrated.

2 A last instance of pushing a little bit too far is when the
3 prosecutor started talking about this interview about money and
4 funds. And I'll translate what I heard. The exact quote I heard
5 was, "We have every reason to think he has money," end quote.
6 And in defense-lawyer-translator language, that is, "We think
7 he's got money, but we can't say we have any proof of it." And
8 they don't. Instead, they want to raise intimations that somehow
9 Mr. Fahd has money squirreled away somewhere. Their basis for
10 that is he's unhelpful in producing the assets. So the
11 interview, which went on for about an hour, took the basic form
12 of: "Mr. Fahd, tell us where your assets are. I don't have any
13 assets. Won't you help us find your assets? I don't have any.
14 What's your bank account that you had four years ago, before you
15 got arrested and dragged into Hong Kong? I don't remember."
16 He's not being helpful at getting the assets he doesn't have.
17 That's an argument nobody can win, Your Honor, and Mr. Fahd isn't
18 going to engage in it.

19 The truth is, Your Honor, and the record is pretty clear,
20 Mr. Fahd is a first offender, he has good and consistent support
21 from his family. This behavior he engaged in is not consistent
22 with the man he is, and he wants the Court to know that with the
23 help of his family, he's going to be able to recover and go on
24 and reestablish himself as a law-abiding citizen.

25 While incarcerated, he suffered under health problems because

1 of COVID and all the collateral problems having to do with the
2 conditions of his confinement. We haven't detailed everything he
3 has gone through because the Court has heard a lot of it from
4 other defendants: lockdowns, inability to have any communication
5 with counsel or family for weeks at a time, and being in close
6 quarters 23 and a half hours a day with another person, unable to
7 leave. He's been in custody for about 41 months already, but
8 that's not it. Even if the Court were to order him released
9 today, he has immigration consequences. Any sentence the Court
10 gives him will have to be served within the restrictions of the
11 Bureau of Prisons. Those policies mean that he can't take
12 certain programs, and the conditions are objectively harsher for
13 him.

14 Also, as the Court knows, deportation adds time post-release.
15 Deporting people to places like Canada and Mexico is,
16 unfortunately, routine, but it happens quickly. Deporting people
17 back to the Middle East, not so much. And the recent problems in
18 Afghanistan have probably made that an even more extended
19 process.

20 Mr. Fahd has accepted responsibility for his crimes, Your
21 Honor. And the last thing I wanted to mention before I bring him
22 up here is Mr. Fahd accepts responsibility for what he did, and
23 what he did is he did lure other people into this mess. He did
24 bring in people, he recruited them. The defense doesn't agree,
25 however, that those people who got recruited did everything only

1 because of Mr. Fahd. And, in fact, I think the government, in
2 candor, would have to admit that it wasn't all his fault, the way
3 that they assert it. I mean, after all, the government
4 prosecuted those people, prosecuted them for breaking the law,
5 and those people admitted doing it on their own, not because of
6 duress. Mr. Fahd did do bad things, and there's no question
7 about why he did it. He did it for the money. And for that
8 money, he sold everything he had.

9 When I heard Ms. Dungan up here talking about the loss to
10 AT&T, she was questioning, and she said, "I don't know what
11 persuasive powers this man had." Well, it was easy, he had
12 money, and the people who were suborned went that way because of
13 hundreds of thousands of dollars that they received.

14 Your Honor, if the Court is ready, I could have Mr. Fahd
15 approach the podium.

16 THE COURT: Sure. Mr. Fahd, if you could go up to the
17 podium, please.

18 THE DEFENDANT: Your Honor, I would like to start by
19 saying that I'm ashamed to be in front of this Court right now.
20 I don't blame anyone except myself for this crime and the
21 situation that it has gotten me into. I have -- And because of
22 this, I have brought a lot of shame and disgrace on my family and
23 suffering that they have to go through because of me, and it was
24 all caused because of greed that motivated me to do these things.
25 It consumed me over time and lured me to lose sight of what was

1 right and wrong.

2 What I would like to say is I was not that person that I am
3 right now. I was not thinking. I was just going. And at that
4 time I only saw money and I didn't realize what I was doing to
5 other people around me because of that, the people that I was
6 working with.

7 I -- I lost a lot of things because of that. I realize that
8 money is not everything. I lost my time with my family, with my
9 son. I lost my wife. I lost whatever I had, even the money.
10 Now I have nothing until I get back on my feet.

11 I'm fearful of losing my parents because they're very old.
12 I'm fearful of losing my son because my wife is trying to get his
13 custody. I'm fearful of a lot of things.

14 During this time, the most haunting thing that happened to me
15 was I saw my friend die in prison. And I still feel the guilt of
16 getting him involved in this. Also, I'm regretful that I blamed
17 him for something that was untrue. I shouldn't have done that,
18 because he was a very good friend to me.

19 I apologize to each and every individual that has been
20 affected by this crime and these actions and behaviors of mine.
21 I apologize to AT&T for their loss and their suffering. And I
22 apologize to my victims, my co-conspirators, that I got them
23 involved in this when I shouldn't have played with their lives.
24 I apologize to my family for putting them through this and the
25 suffering that this has caused them.

1 And I would like to say that I'm not the same person that I
2 was when I first got incarcerated. I have found ways to cope
3 with my problems through God. I have turned towards him to guide
4 me better, and it has made me think more clearly on what is
5 important in life. I would like to say that I now understand the
6 faults in me that have caused me to be in front of this Court
7 right now.

8 I would like to say, when I'm released, I will go back to
9 Pakistan and start my life all over again. I will get a job with
10 my uncle who has told me he's going to support me. I will be
11 supported by my family members and helped to get back on my feet.

12 And I would like to tell this to the Court, that I will never
13 repeat this behavior, I will never repeat these actions, I will
14 never repeat any crime ever in my life again. I promise this to
15 myself, to my family, and to this Court.

16 THE COURT: So, Mr. Fahd, when you first saw that AT&T
17 was onto the scheme and was interviewing some of your cohorts and
18 you were worried that you were going to be caught or people might
19 leave records around, how come that didn't sort of scare you
20 straight to say, "Boy, that was a close call, I better cut this
21 out"?

22 THE DEFENDANT: Your Honor, it did scare me, but then
23 I -- I didn't do anything. I was basically egged on by certain
24 people, and they said, "Don't worry, it's going to be fine,
25 they're not going to do anything to you, just let's do this."

1 And that's why I kept on going on because they said, "Nothing is
2 going to happen to you, you're going to be all right, and because
3 you live so far away." I was scared. I was not doing anything.
4 I told them, like, "I'm not going to do this," but they kept on
5 egging me on, and that's why I did it again.

6 THE COURT: And do you feel that you now have the
7 strength to say "No" to people like that when they come to you
8 later on?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Okay.

11 THE DEFENDANT: Because I lost a lot of time with my
12 son. I left my son when he was two years old, and he's just
13 turning six in two days. And he said to me, "Why can't you come
14 to my birthday?" It's heartbreaking.

15 THE COURT: Your sister and brother-in-law are in the
16 audience. Do you have anything to say to them?

17 THE DEFENDANT: I would like to say sorry that I, you
18 know, disappointed you guys.

19 THE COURT: Thank you, Mr. Fahd.

20 Well, there's no question that Mr. Fahd has been painted with
21 too broad of a brush by the government as a person of no
22 redeeming qualities whatsoever, no mitigating circumstances
23 whatsoever. He's suffered great loss over the last few years.
24 And, you know, being separated from his wife and son, his family,
25 his parents, that's not easy. And, you know, his time in this

1 country around 9/11, where he became the object of hatred from
2 neighbors and other people, that's not easy either. So I
3 certainly agree with Mr. Illa and with Ms. Lacy that there are
4 mitigating circumstances at play here. You know, sometimes when
5 you sit up here, you see that nothing is completely black and
6 white. There are always shades of gray. And there are shades of
7 gray here too. It doesn't take away from the fact that Mr. Fahd
8 committed a terrible cybercrime over an extended period of time,
9 that he had a terrible influence on people who were not prone to
10 be criminals but couldn't resist the thought of making hundreds
11 of thousands of dollars in what must have seemed like easy money
12 at the time.

13 But just to go through the objections that are in the
14 presentence report. I do not find the objection about there are
15 other people who were really the controlling people here. The
16 leader of this crime was Mr. Fahd, and he deserves the points
17 that have been ascribed to him in that leadership role.

18 I'll come back to loss calculation.

19 I believe the obstruction of justice, Objection 3, I overrule
20 that objection. I believe that it's correctly an upward
21 adjustment for obstruction.

22 And, No. 4, Mr. Fahd was the organizer and leader, a
23 four-level enhancement, not just the two-level enhancement.

24 Now, restitution, No. 5, and loss amount, No. 2. I believe,
25 although it's difficult to plow through it, I believe the

1 government has established that the loss amount to AT&T was over
2 \$150,000 and under \$250,000. So it is scored correctly there.
3 And then the restitution amount doesn't affect the guideline
4 score directly, but I find that the restitution amount of
5 \$5,338,430 has been established. The loss amount, I designate as
6 \$200,620,698, as asserted by the government. It has been
7 established by clear and convincing evidence. And so I will
8 adopt those two things.

9 The guideline range then by these calculations -- there's so
10 much paper up here -- is above the statutory maximum of 20 years.
11 So 20 years, 240 months, becomes the guideline involved here.
12 And I'm going to impose a sentence of 12 years, which is
13 144 months. I believe that's sufficient but not greater than
14 necessary to address the harm here.

15 I'm not a big one for proportionality with other judges'
16 sentencings of other individuals, some of whom went to trial. I
17 deal with the person who's in front of me. And given what
18 Mr. Fahd has admitted here today and in his plea of guilty, I
19 believe a 12-year sentence is sufficient.

20 Mr. Fahd, upon your release from prison, you will be on three
21 years of supervised release subject to standard conditions and
22 the following special conditions. If you are deported, you shall
23 not reenter the United States without explicit permission of the
24 Secretary of Department of Homeland Security. The restitution,
25 realistically, there's no way you are ever going to be able to

1 meet this number, but I will set it at \$200,620,698, and that's
2 due immediately. Any unpaid amount should be paid in monthly
3 installments. I will waive interest on the restitution. You
4 will submit to search of your person, property, house, residence,
5 storage unit, electronic devices, et cetera, conducted in a
6 reasonable time and manner. I will waive the fine for inability
7 to pay. There is a \$100 special assessment which is due
8 immediately.

9 The government agreed to credit for time served for all of
10 the time from when he was in custody, and I'm not sure the Bureau
11 of Prisons is going to know that information, so if you can agree
12 on an amount of time to put right in the judgment, I think that
13 would be good.

14 Do you have an agreement on that amount of time,
15 Mr. Franze-Nakamura?

16 MR. FRANZE-NAKAMURA: Your Honor, we have not done the
17 actual calculation, but could we just indicate that he's been in
18 custody since February 4th, 2018?

19 THE COURT: I think that would do it.

20 What do you think, Mr. Illa?

21 MR. ILLA: Mr. Camiel has expertise in this issue,
22 having gone through it a few times. I would ask that he be able
23 to address it, please.

24 MR. CAMIEL: Your Honor, I think -- I have had trouble
25 with the Bureau of Prisons --

1 THE COURT: Yeah.

2 MR. CAMIEL: -- giving credit for time when somebody was
3 somewhere else. I think it needs to be very explicit in the
4 judgment that indicates that he's to receive credit starting on
5 February 4th, 2018, while in custody in Hong Kong.

6 THE COURT: Okay. Let's explicitly put it in there.
7 Not just the date, but address that it was while in custody in
8 Hong Kong and forward in there.

9 MR. CAMIEL: Thank you.

10 THE COURT: Okay. And then --

11 MR. FRANZE-NAKAMURA: Your Honor --

12 THE COURT: So on the order of -- Oh, go ahead,
13 Mr. Franze-Nakamura.

14 MR. FRANZE-NAKAMURA: I'm going to plug into the
15 calculator right now and I will actually have a specific date, if
16 I can just have a moment?

17 THE COURT: Sure. Take your time on that.

18 And then, Mr. Friedman, on the order of forfeiture then,
19 you're suggesting that the Court write in that \$5,338,430?

20 MR. FRIEDMAN: Yes, Your Honor.

21 And then we would caveat to the Court saying -- I guess we
22 will handwrite on the judgment that says that that order is
23 incorporated by reference.

24 MR. FRANZE-NAKAMURA: With the benefit of the internet,
25 it indicates that he's been in jail for 1,320 days, or

1 approximately three years, seven months.

2 So is there a preference between --

3 MR. CAMIEL: I would ask that it say February 4th of
4 2018 --

5 MR. FRANZE-NAKAMURA: Okay.

6 MR. CAMIEL: -- because it's up to the BOP when they
7 start counting.

8 THE COURT: Okay. Did you have a placement
9 recommendation at all, too?

10 MR. ILLA: May I have a moment, Your Honor?

11 THE COURT: Sure.

12 MR. CAMIEL: Your Honor, we would ask for placement, if
13 possible, knowing only it's a recommendation, at Bastrop, Texas.

14 THE COURT: What's the name of the facility?

15 MR. CAMIEL: Bastrop.

16 THE COURT: Could you spell it for me?

17 MR. CAMIEL: Yeah. B-a-s-t-r-o-p.

18 THE COURT: Okay. Do you know about that, Ms. Lacy?

19 MS. LACY: Yes, I do, Your Honor.

20 THE COURT: Okay. Is it an FCI or --

21 MS. LACY: It's an FCI.

22 THE COURT: Okay. Let's put a recommendation in there
23 for that FCI in Texas that I still don't know how to spell.

24 Mr. Fahd, I want you to remember that, you know, you're not
25 defined by the worst thing you ever did, okay? You can tell your

1 big sisters love you, your parents. What a torture it is for
2 them to talk to you on the phone. You may have trouble
3 reconnecting with your son, no question about that. And your
4 wife might say, "I didn't sign up for this, I'm leaving." You
5 can't control what happened in the past, but you can control what
6 happens in the future. And I want you to not be bitter about,
7 you know, the United States government and how it treated you.
8 See that you set the path for where you are by your own greed and
9 your own mistakes but that you have the ability for redemption,
10 some of it through your religion, some of it through your family,
11 but, ultimately, through your actions, okay?

12 Mr. Illa.

13 MR. ILLA: Your Honor, I have reviewed the proposed
14 judgment prepared by the Assistant U.S. Attorney. I believe it
15 comports with the Court's oral ruling.

16 May I approach?

17 THE COURT: You may approach.

18 MR. ILLA: Thank you, Your Honor.

19 THE COURT: Thank you, Mr. Illa.

20 Today is the 16th, isn't it?

21 MR. ILLA: The 16th, Your Honor, yes.

22 THE COURT: Yeah. So I'm going to change it. It says
23 the 15th on here, but I'll put the 16th.

24 Okay. I have signed the judgment in the case.

25 Now, Mr. Fahd, in his plea agreement, waived his right to

1 appeal as long as the Court stayed within or below the guideline
2 range, and I think that I did stay within or below the guideline
3 range. So the only matters you can appeal, Mr. Fahd, are
4 ineffective assistance of counsel -- and you had some great
5 lawyers here, but you have the right to say they were ineffective
6 and didn't do something they should have -- and conditions of
7 confinement. So if you're in the Bureau of Prisons and you're in
8 a situation where you feel your constitutional rights are being
9 violated by how they're treating you in prison, you have the
10 right to bring that up. Do you understand?

11 THE DEFENDANT: (Nods affirmatively.)

12 THE COURT: Okay. All right. Thanks very much,
13 counsel. Excellent presentations both in writing and orally
14 today, and I appreciate the quality of the work.

15 We are adjourned.

16 MR. FRANZE-NAKAMURA: Thank you, Your Honor.

17 (Adjourned.)
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25

C E R T I F I C A T E

I, Nickoline M. Drury, RMR, CRR, Court Reporter for the United States District Court in the Western District of Washington at Seattle, do certify that the foregoing is a correct transcript, to the best of my ability, from the record of proceedings in the above-entitled matter.

/s/ Nickoline Drury

Nickoline Drury

EXHIBIT 44

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
) CR-18-00258-EJD
 PLAINTIFF,)
) SAN JOSE, CALIFORNIA
 VS.)
) NOVEMBER 18, 2022
 ELIZABETH A. HOLMES,)
) PAGES 1 - 135
 DEFENDANT.)
) **SENTENCING**

TRANSCRIPT OF SENTENCING PROCEEDINGS
BEFORE THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

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(APPEARANCES CONTINUED ON THE NEXT PAGE.)

OFFICIAL COURT REPORTER:
IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 THE JURY FOUND APPARENTLY THAT MS. HOLMES DID NOT HAVE THE
2 INTENT TO DEFRAUD PATIENTS, BUT THAT DOES NOT MEAN THAT SHE DID
3 NOT HAVE A RECKLESS OR CONSCIOUS DISREGARD OF THE RISK THAT
4 THERANOS'S ACTIONS WERE POSING TO PATIENTS.

5 AND, IN FACT, THE EVIDENCE THAT THE COURT HAS SEEN OVER
6 THE COURSE OF THIS CASE IN BOTH TRIALS SHOWS THAT MS. HOLMES
7 DID HAVE THAT DISREGARD FOR THE RISK THAT PATIENTS WERE
8 INCURRING AS A RESULT OF THERANOS'S ACCURACY AND RELIABILITY
9 PROBLEMS IN ITS TEST, AND I'M HAPPY TO GO OVER THAT BRIEFLY,
10 BUT I WANT TO PAUSE TO SEE IF THE COURT HAS ANY QUESTIONS SO
11 FAR.

12 THE COURT: WELL, I SUPPOSE FOCUSING ON THIS
13 FACTOR, WHAT DO YOU BELIEVE, AND I'LL ASK MR. DOWNEY TO
14 RESPOND, WHAT DO YOU BELIEVE, WHAT FACT OR FACTS DO YOU BELIEVE
15 ARE THE BEST SUPPORT FOR THE COURT APPLYING THIS FACTOR?

16 MS. BOSTIC: YES, YOUR HONOR.

17 SO I THINK A LARGE PORTION OF BOTH TRIALS IN THIS CASE
18 FOCUSED ON NOT ONLY THE PROBLEMS WITH THERANOS'S TECHNOLOGY
19 AND THE WAY THAT THOSE PROBLEMS HAD AN ADVERSE IMPACT ON THE
20 ACCURACY OF THE TEST, BUT ALSO SPECIFICALLY THE DEFENDANT'S
21 KNOWLEDGE OF THOSE PROBLEMS, BOTH MS. HOLMES AND MR. BALWANI.

22 AND THE GOVERNMENT'S SENTENCING MEMORANDUM HIGHLIGHTS A
23 FEW KEY EXAMPLES SHOWING THAT MS. HOLMES KNEW THAT THERE WERE
24 SERIOUS PROBLEMS.

25 EVEN YEARS BEFORE THERANOS OFFERED ITS TESTS, MS. HOLMES

10:26AM 1 HAD A CONVERSATION WITH A CONSULTANT HIRED BY WALGREENS TO
10:26AM 2 ASSESS THERANOS'S TECHNOLOGY.

10:26AM 3 WHEN THAT CONSULTANT RAISED CONCERNS, ASKED QUESTIONS
10:26AM 4 ABOUT WHAT SUBSTANTIATED THERANOS'S CLAIMS, AND WARNED
10:26AM 5 MS. HOLMES THAT INACCURATE TEST RESULTS WERE A SERIOUS THING
10:26AM 6 AND COULD POTENTIALLY LAND HER IN JAIL, THAT'S WHAT THIS
10:26AM 7 CONSULTANT TOLD HER, SHE RESPONDED GLIBLY ACCORDING TO THAT
10:26AM 8 CONSULTANT. SHE SAID SOMETHING TO THE EFFECT OF "THEY DON'T
10:26AM 9 PUT ATTRACTIVE PEOPLE LIKE ME IN JAIL."

10:26AM 10 YEARS LATER WHEN THE COMPANY WAS ABOUT TO LAUNCH ITS
10:26AM 11 SERVICES TO THE PUBLIC, MS. HOLMES'S LAB DIRECTOR CAME TO HER
10:26AM 12 INDICATING THAT HE HAD TO RAISE ALARM BILLS BECAUSE THE COMPANY
10:26AM 13 WAS NOT READY TO LAUNCH IN SOME IMPORTANT RESPECTS. THE LAUNCH
10:27AM 14 WENT FORWARD ANYHOW.

10:27AM 15 AFTER THE LAUNCH WENT FORWARD, AS THE COURT SAW, THERE
10:27AM 16 WERE NUMEROUS INCIDENTS WHERE PROBLEMS AROSE WITH THE
10:27AM 17 PERFORMANCE OF THERANOS'S TECHNOLOGY AND PROBLEMS THAT WOULD
10:27AM 18 HAVE A DIRECT IMPACT ON WHETHER PATIENTS COULD ACTUALLY RELY ON
10:27AM 19 THESE TESTS TO MAKE THE IMPORTANT MEDICAL DECISIONS THAT WOULD
10:27AM 20 BE MADE BASED ON THE CLINICAL BLOOD TEST. THOSE ARE ALSO
10:27AM 21 HIGHLIGHTED IN THE GOVERNMENT'S BRIEFING.

10:27AM 22 THOSE ALERTS CAME FROM STAFF WHO WERE WORKING WITH THE
10:27AM 23 TECHNOLOGY ITSELF. THEY CAME FROM THE LAB DIRECTOR, THEY CAME
10:27AM 24 FROM OTHER PERSONNEL AT THERANOS, INCLUDING THE GRANDSON OF ONE
10:27AM 25 OF THE BOARD MEMBERS WHO SENT A VERY DETAILED MESSAGE TO

1 MS. HOLMES LAYING OUT REASONS WHY HE THOUGHT THE COMPANY MIGHT
2 BE OVERSTATING THE PERFORMANCE AND ACCURACY OF ITS TESTS.

3 AND MS. HOLMES WAS ALSO AWARE OF MANY INSTANCES WHERE
4 PATIENTS GOT INACCURATE RESULTS ON IMPORTANT MEDICAL TESTS AND
5 SITUATIONS WHERE EMPLOYEES EXPRESSED DOUBTS OR MISGIVINGS OR
6 CONCERNS ABOUT THE TESTS THAT THERANOS WAS PROVIDING TO
7 PATIENTS.

8 MS. HOLMES RESPONDED TO THESE SITUATIONS IN A VARIETY OF
9 WAYS, SOMETIMES WITH INDIGNATION, SOMETIMES WITH ANXIETY,
10 SOMETIMES WITH DISMISSIVENESS, AND THE IMPORTANT THING, THOUGH,
11 IS THAT IN NONE OF THOSE SITUATIONS DID MS. HOLMES OR
12 MR. BALWANI TAKE THOSE CONCERNS TO HEART AND STOP OFFERING
13 THESE PROBLEMATIC TESTS.

14 SO THIS ENHANCEMENT IS NOT ABOUT WHETHER HARM WAS DONE.
15 THE GOVERNMENT IS NOT REQUIRED TO SHOW THAT PATIENTS ACTUALLY
16 SUFFERED HARM, ALTHOUGH THE GOVERNMENT HAS SHOWN THAT.

17 THE GOVERNMENT IS NOT REQUIRED EVEN TO SHOW THAT THE
18 DEFENDANT WAS SUBJECTIVELY AWARE OF THE RISK, AND THAT'S THE
19 CASES THAT THE GOVERNMENT HAS CITED.

20 IN EXAMPLES CITED IN OUR BRIEFING, SITUATIONS WHERE A
21 DEFENDANT CAUSED FALSE ENTRIES TO APPEAR IN A PATIENT RECORD
22 SYSTEM, THAT WAS SUFFICIENT FOR THIS ENHANCEMENT TO APPLY.

23 THE ENHANCEMENT ALSO APPLIED IN A SITUATION WHERE THE
24 DEFENDANTS RAN A HEALTH CARE FACILITY AND ADMITTED ELDERLY
25 DEMENTIA PATIENTS WHEN THE FACILITY AND THE STAFF WERE NOT

10:38AM 1 50 PERCENT OF THE TIME.

10:38AM 2 DR. ROSENDORFF, DR. PANDORI, ERIKA CHEUNG AND OTHERS
10:38AM 3 TESTIFIED THAT THE THERANOS TECHNOLOGY PERFORMED SIGNIFICANTLY
10:38AM 4 WORSE THAN THE CONVENTIONAL TECHNOLOGY.

10:38AM 5 AND SKIPPING TO THE END OF THE STORY, IT'S IMPORTANT TO
10:38AM 6 REMEMBER THAT WHEN CMS CAME AND INSPECTED THERANOS LOOKING AT,
10:39AM 7 AMONG OTHER THINGS, THE RELIABILITY AND THE ACCURACY OF THE
10:39AM 8 TEST THAT THIS LAB IS GENERATING, IT FOUND SERIOUS PROBLEMS AND
10:39AM 9 THERANOS ITSELF WAS FORCED TO ADMIT BASED ON THAT INSPECTION
10:39AM 10 THAT THERE WAS A POTENTIAL PATIENT IMPACT FOR EVERY TEST THAT
10:39AM 11 HAD BEEN PERFORMED ON THE THERANOS TECHNOLOGY, AND AS A RESULT,
10:39AM 12 THE COMPANY ACTUALLY TOOK A STEP OF VOIDING EVERY SINGLE TEST
10:39AM 13 RUN ON ITS EDISON ANALYZER.

10:39AM 14 SO TO STAND HERE TODAY AND ARGUE THAT INACCURATE TESTING
10:39AM 15 IS A FACT OF LIFE, THAT IT'S UNAVOIDABLE, THAT THIS WAS PART
10:39AM 16 NORMAL LAB PRACTICE I THINK IS INCONSISTENT WITH THAT PROOF AT
10:39AM 17 TRIAL.

10:39AM 18 AND IN TERMS OF MS. HOLMES'S NOTICE, YES, I THINK THE
10:39AM 19 EVIDENCE AT TRIAL AND THE THINGS THAT I JUST RECOUNTED TO THE
10:39AM 20 COURT DO SHOW THAT MS. HOLMES WAS AWARE OF THAT, AND, YES,
10:39AM 21 ACTION WAS TAKEN IN RESPONSE TO THESE ISSUES.

10:39AM 22 BUT THE STANDARD DOESN'T REQUIRE INDIFFERENCE TO THE RISK
10:40AM 23 OR INACTION IN RESPONSE TO THE RISK. IT REQUIRES A CONSCIOUS
10:40AM 24 DISREGARD OR RECKLESSNESS, AND THAT'S WHAT MS. HOLMES SHOWED
10:40AM 25 WHEN SHE AND MR. BALWANI CONTINUED TO OFFER THESE TESTS.

1 FOR BEING AN ORGANIZER OF THE CRIMINAL ACTIVITY.

2 I'VE READ THE REPORT AND THE PSR ON THIS AND THE REASONS
3 WHY IT SHOULD BE GIVEN, AND I JUST WANTED TO ASK YOUR -- THE
4 GOVERNMENT'S THOUGHTS ABOUT THIS. I LOOK AT HOLDEN, 908 FED.3D
5 THAT GAVE SOME GUIDANCE, BUT I'M HAPPY TO HEAR YOUR COMMENT.

6 MR. BOSTIC.

7 MS. BOSTIC: OF COURSE, YOUR HONOR. I'M HAPPY TO
8 RESPOND TO ANY SPECIFIC QUESTIONS THAT THE COURT HAS, BUT JUST
9 TO GIVE AN OVERVIEW OF THE GOVERNMENT'S POSITION.

10 MS. HOLMES WAS THE FOUNDER, THE CHIEF EXECUTIVE OFFICER,
11 AND THE CHAIR PERSON OF THE BOARD OF A COMPANY AT THE CENTER OF
12 A MULTI-YEAR AND COMPLICATED FRAUD.

13 AND I SAY, THE COMPANY WAS AT THE CENTER OF IT, PARTLY
14 BECAUSE OF THE WAY THAT MS. HOLMES USED THE APPARATUS OF THE
15 COMPANY TO FURTHER THAT FRAUD.

16 GRANTED, COMMITTING THE FRAUD MAY NOT HAVE BEEN THE CHIEF
17 REASON WHY SHE FOUNDED THE COMPANY, THE GOVERNMENT HAS NOT
18 ALLEGED THAT.

19 AND THE VAST MAJORITY OF THE PEOPLE WHO WORKED FOR HER
20 WERE NOT KNOWING OR VOLUNTARY PARTICIPANTS IN THE FRAUD, BUT
21 NONETHELESS THEIR WORK CONTRIBUTED TO IT AND MS. HOLMES USED
22 THEM TO FURTHER THAT FRAUD AND MAKE IT REMARKABLY SUCCESSFUL.

23 THE EVIDENCE AT TRIAL SHOWED THAT MS. HOLMES'S POSITION AT
24 THERANOS, HER AUTHORITY, WAS SECOND TO NONE. SHE TESTIFIED
25 THAT SHE HAD THE AUTHORITY TO TERMINATE ANY OTHER EMPLOYEE OF

1 THE COMPANY, INCLUDING THE CODEFENDANT, MR. BALWANI, TO DISMISS
2 MEMBERS OF THE BOARD. SHE WAS ALSO THE MAJOR SHAREHOLDER IN
3 THE COMPANY, SO SHE HAD THAT VOTING POWER.

4 THE COURT: PARDON ME FOR INTERRUPTING YOU.

5 SO I HAVE NO DISAGREEMENT WITH THAT. I DON'T THINK YOUR
6 COLLEAGUE OPPOSITE WOULD DISAGREE WITH THAT.

7 WHAT I'M MORE INTERESTED IN IS NOT SO MUCH HER LEADERSHIP
8 ROLE IN THE COMPANY, BUT WHAT ESTABLISHES A LEADERSHIP ROLE IN
9 THE CRIMINAL CONDUCT WITH THE CODEFENDANT THAT WOULD PERMIT
10 THIS ENHANCEMENT TO BE PERMITTED?

11 AND IS THERE A LEADERSHIP ROLE VIS-À-VIS MR. BALWANI, THE
12 CODEFENDANT, THAT WOULD ALLOW THIS? AND THAT'S WHAT THE HOLDEN
13 CASE TALKS ABOUT. THAT'S WHAT I NEED SOME HELP ON FROM YOU.

14 MS. BOSTIC: UNDERSTOOD, YOUR HONOR.

15 I THINK THAT THE DEFENSE'S ARGUMENT THAT MS. HOLMES NEEDED
16 TO BE A LEADER EVEN VIS-À-VIS MR. BALWANI, IS NOT CORRECT BASED
17 ON THE LAW.

18 THE GUIDELINE SAYS THAT THIS ENHANCEMENT WILL APPLY WHEN A
19 DEFENDANT IS A LEADER OR AN ORGANIZER IN CRIMINAL CONDUCT THAT
20 INVOLVES FIVE OR MORE PARTICIPANTS OR IS OTHERWISE EXTENSIVE.

21 SO HERE I THINK THIS ENHANCEMENT SHOULD APPLY BECAUSE THE
22 CRIMINAL CONDUCT WAS OTHERWISE EXTENSIVE.

23 THE COURT: RIGHT. THERE'S NO FIVE PARTICIPANTS.

24 WE KNOW -- THE GUIDELINES TELLS PARTICIPANTS ARE THE
25 ACTUAL DEFENDANTS, IF YOU WILL. WE HAVE TWO OF THOSE.

1 AS TO THE DEFENSE FIRST OBJECTION, OBJECTION NUMBER ONE
2 REGARDING ENHANCEMENT OF THE SENTENCE ON ACQUITTED CONDUCT, THE
3 CONDUCT, AS THE PROBATION OFFICER INFORMED US, HAS NOT, NOT
4 BEEN USED TO CALCULATE GUIDELINES IN THE CASE, AND THE COURT
5 WILL NOT USE THAT IN ITS GUIDELINE CALCULATION.

6 PART OF THE DISCUSSION HERE I THINK ALSO RAISED -- I THINK
7 WE TALKED ABOUT THE GOVERNMENT'S DESIRE FOR THE COURT TO IMPOSE
8 AN ENHANCEMENT PURSUANT TO 2B1.1(6), THE RISK OF BODILY HARM.
9 THE COURT IS GOING TO DENY THAT REQUEST. I WILL NOT GIVE THE 2
10 POINT ENHANCEMENT FOR RISK OF BODILY HARM. THE COURT FINDS
11 THAT THE EVIDENCE DOES NOT SUPPORT THAT ENHANCEMENT.

12 THE COURT OTHERWISE OVERRULES OBJECTION NUMBER ONE
13 RECOGNIZING, HOWEVER, THAT, AS I PREVIOUSLY STATED, THAT
14 CONDUCT IS NOT AND WAS NOT USED BY PROBATION IN THE GUIDELINE
15 CALCULATION.

16 OBJECTION NUMBER TWO RELATES TO SOME OF THE OTHER
17 OBJECTIONS THAT WE DISCUSSED REGARDING LOSS AMOUNTS. OBJECTION
18 NUMBER TWO REFERS TO PARAGRAPH 28 REGARDING THE C INVESTMENTS.
19 TO THE EXTENT THAT THIS OBJECTION RELATES TO THE AGGREGATION OF
20 C1 AND C2 INVESTMENTS FOR LOSS CALCULATION, THE OBJECTION IS
21 SUSTAINED. I'LL TALK A LITTLE BIT MORE ABOUT THE LOSS AMOUNT
22 IN THE OTHER OBJECTIONS.

23 OBJECTION NUMBER THREE IS THE OBJECTION TO THE USE OF
24 MS. PETERSON'S TESTIMONY IN PARAGRAPHS 44 AND 93. THE COURT
25 WILL OVERRULE THIS OBJECTION CITING TO, AS THE PROBATION

12:35PM 1 THE S.E.C. DEPOSITIONS, THE FBI MEMOS, AND THE VICTIM IMPACT
12:35PM 2 STATEMENTS PRODUCED BY THE GOVERNMENT TO ASSIST IT IN
12:35PM 3 IDENTIFYING THE NUMBER OF VICTIMS HERE.

12:35PM 4 ALL OF THAT EVIDENCE SUPPORTS THEN THAT THE FOLLOWING TEN
12:35PM 5 INVESTORS FROM THE GOVERNMENT'S LIST MEET THE DEFINITION OF
12:35PM 6 "VICTIM" UNDER THE SENTENCING GUIDELINES. I'LL JUST LIST THESE
12:35PM 7 FOR YOU, PLEASE.

- 12:35PM 8 1. PFM;
- 12:36PM 9 2. MOSLEY FAMILY HOLDINGS;
- 12:36PM 10 3. RDV CORPORATION;
- 12:36PM 11 4. KEITH RUPERT MURDOCH;
- 12:36PM 12 5. RICHARD KOVACEVICH;
- 12:36PM 13 6. PEER VENTURE GROUP;
- 12:36PM 14 7. LUCAS VENTURE GROUP;
- 12:36PM 15 8. MENDENHALL;
- 12:36PM 16 9. HALL/BLACK DIAMOND; AND,
- 12:36PM 17 10. BLACK DIAMOND VENTURE.

12:36PM 18 ACCORDINGLY, EACH OF THESE VICTIM'S LOSSES REFLECTED IN
12:36PM 19 THE LOSS AMOUNT, AND THAT TOTALS \$384,047,273.

12:36PM 20 NOW, THE COURT RECOGNIZES THAT THERE MAY BE MORE INVESTOR
12:36PM 21 VICTIMS. MR. EDLIN, DANIEL EDLIN WHO WAS A PROJECT MANAGER AT
12:36PM 22 THERANOS TESTIFIED THAT HE PREPARED BINDERS THAT WERE GIVEN TO
12:36PM 23 INVESTORS, AND THOSE BINDERS CONTAINED INFORMATION THAT WAS
12:36PM 24 APPROVED BY A CHECKLIST AND WAS OTHERWISE APPROVED AND REVIEWED
12:36PM 25 AND ANY CONDUCT IN THOSE BINDERS WAS APPROVED BY MS. HOLMES

1 THE COURT CITED TO THE HOLDEN CASE THAT IS INSTRUCTIVE,
2 THE NINTH CIRCUIT CASE, THAT IS INSTRUCTIVE AND TEACHES IN THIS
3 AREA IS AT 908 FED. 3D 395. AND, AGAIN, THERE'S NO DISPUTE
4 THAT MS. HOLMES WAS THE LEADER OF THE COMPANY, BUT THE EVIDENCE
5 DOESN'T SUPPORT THAT SHE WAS ACTUALLY THE LEADER OF THE
6 CRIMINAL ACTIVITY, THAT IS, THE FRAUD AND CONSPIRACY, IN
7 REGARDS TO THE TWO PARTICIPANTS, MS. HOLMES AND MR. BALWANI,
8 AND THE COURT FINDS THAT THAT HAS NOT BEEN MET.

9 WHILE SHE WAS THE LEADER OF THE COMPANY, THE OTHERWISE
10 EXTENSIVE PRONG, THE COURT FINDS THAT THAT DOESN'T AND HASN'T
11 BEEN MET, AND I'LL OTHERWISE SUSTAIN THE OBJECTION FOR A
12 4 LEVEL ENHANCEMENT HERE.

13 OBJECTION NUMBER SEVEN IS THE OBJECTION THAT THE PSR AND
14 PROBATION DOES NOT GIVE AN EXCEPTION FOR EXPRESSION OF REMORSE.
15 AND THIS IS THE DEFENSE -- I HEARD MR. DOWNEY'S COMMENT THAT
16 HER COMMENTS DURING THE EMPLOYMENT AND HER ACTIONS TAKEN BY THE
17 COMPANY DURING HER LEADERSHIP WOULD SATISFY, OTHERWISE SATISFY
18 AN ACCEPTANCE OF RESPONSIBILITY.

19 AND THE COURT HAS LOOKED AT COMMENT NOTE 2 TO 3E1.1 AND
20 THE CASES THERE, AND MR. BOSTIC INFORMS US OF WHAT THAT NOTE
21 ACTUALLY SAYS AND WHAT THE SPIRIT OF THAT IS.

22 MS. HOLMES WAS FOUND GUILTY OF CONSPIRING TO COMMIT WIRE
23 FRAUD AND COMMITTING WIRE FRAUD AGAINST INVESTORS OF HER
24 COMPANY.

25 WHILE SHE DOES NOT NEED TO, AND WE RECOGNIZE THAT AND

12:49PM 1 OBJECTION NUMBER FOUR WHICH INCLUDES DISCUSSION OF THE LOSS
12:49PM 2 AMOUNT.

12:49PM 3 ANY QUESTIONS ABOUT THE COURT'S RULINGS ON THE APPENDIX A
12:49PM 4 BEFORE WE GO FURTHER?

12:49PM 5 AGAIN, I'M GOING TO MEMORIALIZE THIS IN A WRITTEN ORDER
12:49PM 6 FOR YOU. YOU WILL HAVE THAT.

12:49PM 7 ALL RIGHT. THE COURT WILL NOW INDICATE ITS FINDINGS AS TO
12:49PM 8 THE GUIDELINE CALCULATIONS. I'LL REFERENCE THE PSR PARAGRAPH
12:50PM 9 NUMBERS.

12:50PM 10 PARAGRAPH 104 -- FIRST OF ALL, PARAGRAPH 103 SUGGESTS THAT
12:50PM 11 THERE SHOULD BE GROUPING FOR GUIDELINE CALCULATION PURPOSES
12:50PM 12 PURSUANT TO 3D1.2(D).

12:50PM 13 AND PARAGRAPH 104 THE COURT FINDS THAT THE BASE OFFENSE
12:50PM 14 LEVEL IS 7.

12:50PM 15 THE COURT FINDS THEN UNDER THE 2B1 -- THIS IS IN PARAGRAPH
12:50PM 16 105, 2B1.1 LOSS VALUATION.

12:50PM 17 AFTER OFFSETTING THE VALUE THAT THE STOCK WOULD HAVE HAD
12:50PM 18 ABSENT THE DEFENDANT'S MISREPRESENTATION, THE COURT FINDS THAT
12:50PM 19 THE REASONABLE TOTAL LOSS TO IDENTIFIED INVESTOR VICTIMS IS
12:50PM 20 \$121.1 MILLION. THIS FALLS UNDER 2B1.1(M), WHICH IS A 24 LEVEL
12:51PM 21 ENHANCEMENT.

12:51PM 22 THE COURT HAS RELIED ON THE SABA ESTIMATE OF SHARE PRICES,
12:51PM 23 AND THE COURT FINDS THAT ON DECEMBER 31, 2014 THE \$15.00
12:51PM 24 C1 PRICE WOULD HAVE BEEN \$10.36 ABSENT THE FRAUD, AND THE
12:51PM 25 \$17.00 C2 PRICE WOULD HAVE BEEN \$11.63.

1 WHEN MULTIPLIED BY THE NUMBER OF IDENTIFIABLE VICTIM
2 SHARES, THE TOTAL LOSS IN SHARE VALUE ATTRIBUTABLE TO THE
3 DEFENDANT'S FRAUD, THAT IS, HOW MUCH THE SHARES WERE INFLATED
4 BASED ON THE FRAUD, IS \$121,093,891.00. THIS IS APPROXIMATELY
5 ABOUT A 31.5 PERCENT OF THE TOTAL INVESTMENT VALUE.

6 IN OTHER WORDS, THE STOCK WOULD HAVE BEEN 31.5 PERCENT
7 CHEAPER IF THERE HAD BEEN NO FRAUD.

8 PARAGRAPH 106, THE COURT FINDS PURSUANT TO 2B1.1(B) (A) (I)
9 A 2 LEVEL INCREASE PURSUANT TO TEN OR MORE VICTIMS.

10 THE COURT WILL NOT FIND THAT THERE'S AN ACCEPTANCE OF
11 RESPONSIBILITY REDUCTION.

12 THE ADJUSTED OFFENSE LEVEL THEREFORE IS 33, AND THE TOTAL
13 OFFENSE LEVEL IS 33.

14 THE CRIMINAL HISTORY CATEGORY IS I, AND THAT YIELDS THEN A
15 GUIDELINE RANGE OF 135 MONTHS TO 168 MONTHS.

16 THE COURT WILL FIND THAT THAT IS THE GUIDELINE CALCULATION
17 FOR PURPOSES OF PROCEEDING TO SENTENCING IN THIS MATTER.

18 LET ME NOW TURN TO THE PARTIES TO ASK WHETHER OR NOT THE
19 PARTIES WISH TO BE HEARD AS TO SENTENCING IN THIS MATTER.

20 LET ME TURN FIRST TO THE GOVERNMENT.

21 MR. SCHENK, DO YOU WISH TO BE HEARD?

22 MR. SCHENK: YES. THANK YOU VERY MUCH, YOUR HONOR.

23 YOUR HONOR, AS THE GOVERNMENT'S PAPERS NOTE, THE
24 APPROPRIATE SENTENCE IN THIS CASE IS FOUND AFTER CONSULTATION
25 WITH 3553(A) .

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO
HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS
A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
ABOVE-ENTITLED MATTER.

A handwritten signature in black ink that reads "Irene Rodriguez". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the last name.

IRENE RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074

DATED: NOVEMBER 21, 2022

EXHIBIT 45

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) CR-18-00258-EJD
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) VOLUME 38
)
ELIZABETH A. HOLMES,) NOVEMBER 23, 2021
)
DEFENDANT.) PAGES 7444 - 7681
_____)

TRANSCRIPT OF TRIAL PROCEEDINGS
BEFORE THE HONORABLE EDWARD J. DAVILA
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE
BY: JOHN C. BOSTIC
JEFFREY B. SCHENK
150 ALMADEN BOULEVARD, SUITE 900
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BY: ROBERT S. LEACH
KELLY VOLKAR
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(APPEARANCES CONTINUED ON THE NEXT PAGE.)

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IRENE L. RODRIGUEZ, CSR, RMR, CRR
CERTIFICATE NUMBER 8074
LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

09:44AM 1 Q. NOW, DURING THE COURSE OF THIS MEETING IN 2010 -- WHAT
09:44AM 2 MONTH WAS THIS MEETING, IF YOU RECALL?

09:45AM 3 A. JUST LOOKING BACK AT THE EMAIL, I THINK IT WAS IN MARCH.
09:45AM 4 END OF MARCH.

09:45AM 5 Q. NOW, DID WALGREENS EXPRESS AFTER THAT MEETING THAT THEY
09:45AM 6 MIGHT BE INTERESTED IN EXPLORING A RELATIONSHIP WITH THERANOS?

09:45AM 7 A. YES.

09:45AM 8 Q. DID THEY ALSO EXPRESS TO THERANOS THAT THEY WOULD LIKE TO
09:45AM 9 DO SOME DUE DILIGENCE TO EVALUATE WHETHER THERANOS WAS A
09:45AM 10 PARTNER WITH WHOM WALGREENS THOUGHT IT COULD WORK?

09:45AM 11 A. THEY DID.

09:45AM 12 Q. OKAY. NOW, I WANT TO FOCUS ON TWO REPORTS FROM
09:45AM 13 PHARMACEUTICAL COMPANIES THAT YOU SENT TO WALGREENS IN 2010.

09:45AM 14 DO YOU RECALL THAT THERE'S BEEN TESTIMONY ABOUT THOSE
09:45AM 15 REPORTS?

09:45AM 16 A. I DO.

09:45AM 17 Q. ONE OF THOSE REPORTS WAS FROM SCHERING-PLOUGH; CORRECT?

09:46AM 18 A. YES.

09:46AM 19 Q. AND THE OTHER REPORT WAS FROM PFIZER; CORRECT?

09:46AM 20 A. YES.

09:46AM 21 Q. WHY DID YOU CHOOSE TO SEND THE SCHERING-PLOUGH REPORT TO
09:46AM 22 WALGREENS AS PART OF ITS DUE DILIGENCE?

09:46AM 23 A. BECAUSE WE HAD WORKED WITH SCHERING-PLOUGH TO ESTABLISH
09:46AM 24 VERY RIGOROUS STANDARDS AGAINST WHICH TO VALIDATE OUR TESTS,
09:46AM 25 AND WE HAD RUN THOUSANDS OF CARTRIDGES SHOWING NOT ONLY THAT WE

09:46AM 1 COULD MULTIPLEX THE TESTS ON A SINGLE CARTRIDGE, BUT ALSO THAT
09:46AM 2 WE COULD MEASURE MARKERS AT REALLY LOW LEVELS THAT ARE REALLY
09:46AM 3 HARD TO DO, AND I WANTED TO SHARE THAT DATA.

09:46AM 4 Q. WHEN YOU SAY "MULTIPLEX," WHAT DO YOU MEAN?

09:46AM 5 A. SORRY. THE ABILITY TO RUN THE SAME TESTS ON A SINGLE
09:46AM 6 CARTRIDGE, OR MULTIPLE TESTS ON A SINGLE CARTRIDGE AT THE SAME
09:46AM 7 TIME.

09:46AM 8 Q. OKAY. AND WHY DID YOU CHOOSE TO SHARE THE PFIZER REPORT
09:46AM 9 WITH WALGREENS AS PART OF ITS DUE DILIGENCE PROCESS?

09:46AM 10 A. BECAUSE, AGAIN, WE HAD WORKED WITH PFIZER FOR YEARS TO
09:47AM 11 DEVELOP A STUDY THAT WOULD MEASURE THESE VERY COMPLICATED
09:47AM 12 CANCER MARKERS IN PEOPLE'S HOMES, THE DEVICES WORKED, AND I
09:47AM 13 THOUGHT THE DATA WAS REALLY GOOD, AND I WANTED TO SHARE IT WITH
09:47AM 14 THEM.

09:47AM 15 Q. DO YOU RECALL THAT THERE HAS BEEN TESTIMONY TO THE EFFECT
09:47AM 16 THAT THE LOGOS OF THOSE PHARMACEUTICAL COMPANIES WERE ADDED TO
09:47AM 17 THE TOP OF THOSE DOCUMENTS?

09:47AM 18 A. I DO.

09:47AM 19 Q. AND WHO ADDED THE LOGOS OF THOSE COMPANIES TO THE TOP OF
09:47AM 20 THOSE DOCUMENTS?

09:47AM 21 A. I DID.

09:47AM 22 Q. WHEN DID YOU DO THAT?

09:47AM 23 A. JUST BEFORE SENDING THEM TO WALGREENS.

09:47AM 24 Q. WHY DID YOU DO THAT?

09:47AM 25 A. BECAUSE THIS WORK WAS DONE IN PARTNERSHIP WITH THOSE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

03:16PM 1

Q. 259?

03:16PM 2

A. I THINK SO. I DON'T HAVE THEM IN FRONT OF ME, BUT I

03:16PM 3

ASSUME SO.

03:16PM 4

Q. OKAY. AND, MS. HOLLIMAN, IF WE COULD PLEASE ZOOM OUT.

03:16PM 5

THERE ARE SOME DIFFERENCES IN THE CONCLUSIONS PARAGRAPH OF

03:16PM 6

THIS -- OF THESE TWO DOCUMENTS.

03:16PM 7

DO YOU SEE HOW ON 291 IT SAYS, "THE THERANOS IL-6, TNF-A,

03:17PM 8

CRP ASSAY MULTIPLEX HAS BEEN SHOWN TO GIVE MORE ACCURATE AND

03:17PM 9

PRECISE RESULTS FOR THREE INDEPENDENTLY CALIBRATED CARTRIDGE

03:17PM 10

LOTS AND ALL OF THE MANY INSTRUMENTS USED THAN CURRENT 'GOLD

03:17PM 11

STANDARD' REFERENCE METHODS."

03:17PM 12

DO YOU SEE THAT LANGUAGE?

03:17PM 13

A. I DO.

03:17PM 14

Q. AND I PROBABLY DIDN'T READ THAT AS WELL AS I SHOULD HAVE.

03:17PM 15

BUT DO YOU SEE THAT LANGUAGE?

03:17PM 16

A. I DO.

03:17PM 17

Q. AND DO YOU SEE HOW THOSE WORDS, "GOLD STANDARD REFERENCE

03:17PM 18

METHODS," ARE NOT ON THE CONCLUSIONS IN THE REPORT THAT GOES TO

03:17PM 19

SCHERING-PLOUGH?

03:17PM 20

A. YES.

03:17PM 21

Q. DID YOU ADD THOSE WORDS?

03:17PM 22

A. I THINK SO.

03:17PM 23

Q. OKAY. AND YOU DIDN'T TESTIFY TO THAT IN YOUR DIRECT

03:17PM 24

EXAMINATION; IS THAT CORRECT?

03:17PM 25

A. I DON'T THINK SO.

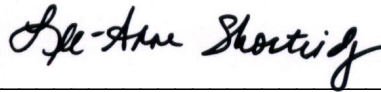
CERTIFICATE OF REPORTERS

WE, THE UNDERSIGNED OFFICIAL COURT REPORTERS OF THE
UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO
HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS
A CORRECT TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
ABOVE-ENTITLED MATTER.



IRENE RODRIGUEZ, CSR, CRR
CERTIFICATE NUMBER 8076



LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

DATED: NOVEMBER 30, 2021

EXHIBIT 46

DECLARATION OF SCOTT WEINGUST

I, Scott Weingust, under penalty of perjury declare the following information to be true and correct:

1. I am over the age of 18 and am competent to make this Declaration. I have personal knowledge of all facts stated herein.

Expert Qualifications

2. I am a Managing Director at Stout Risius Ross, LLC (“Stout”), a global investment bank and advisory firm specializing in corporate finance, transaction advisory, valuation, financial disputes, claims, and investigations. I lead the Intellectual Property Valuation practice at Stout.

3. I earned a Bachelor of Arts degree in both Economics and International Relations from the University of Wisconsin at Madison. I was also awarded a Certificate in International Business Studies by the School of Business at the University of Wisconsin at Madison.

4. I have over 26 years of experience providing consulting services to corporations, law firms, universities, investment firms, and other organizations primarily in the areas of intellectual property valuation, damages, monetization, and management.

5. I have valued patents, trademarks, trade secrets, copyrights, the right of publicity, software, domain names, and other intangible assets across hundreds of client engagements related to thousands of individual assets for a variety of purposes including: disputes, transactions, tax strategy and compliance, corporate strategic decision-making, capital raising, financial reporting, and bankruptcy, among others. I have been directly involved in intellectual

property licensing negotiations and have developed many dynamic intellectual property pricing/valuation models to support corporate transactions and investment decisions.

6. I am currently an adjunct professor at the DePaul University College of Law where I teach a course on intellectual property valuation. I have also previously taught classes on intellectual property valuation and related topics as an adjunct professor or guest lecturer at the New York University School of Law, The John Marshall Law School (currently the University of Illinois Chicago School of Law), the Michigan State University College of Law, and the Illinois Institute of Technology's Chicago-Kent College of Law. I have spoken at conferences or other events for many organizations including the Intellectual Property Owners Association (IPO), Licensing Executives Society ("LES"), American Bar Association ("ABA"), American Intellectual Property Law Association ("AIPLA"), and the Intellectual Property Law Association of Chicago ("IPLAC"), among others.

7. I was recognized as one of the world's leading IP strategists as part of the *IAM Strategy 300* from 2017 to 2022 and one of the world's leading patent professionals as part of the *IAM Patent 1000* from 2020 to 2022. I am a Past Chair of the Valuation & Pricing Committee of LES and a Past Secretary of the Corporate IP Management Committee of IPO. In addition to my memberships in LES and IPO, I am also a member of AIPLA and the National Association of Certified Valuators and Analysts ("NACVA").

8. A copy of my curriculum vitae is attached to this declaration as Appendix A.

Assignment

9. I have been retained by Orrick, Herrington & Sutcliffe LLP ("Counsel"), on behalf of its client Ramesh "Sunny" Balwani. I have been asked by Counsel to review the

Expert Report of Carl S. Saba, MBA, CVA, ASA, ABV (“Mr. Saba”), dated September 8, 2022, in the matter United States v. Holmes, et al., Case # 18-CR-00258 (the “Saba Report”) and provide insights into the reliability of the opinions provided in the Saba Report. I have further been asked by Counsel to provide insight into the alleged loss realized by ten specific investors (the “Investors”) of Theranos, Inc. (“Theranos”) identified by the United States District Court, Northern District of California, San Jose Division (the “Court”)¹ based on improvements made to the analysis found in the Saba Report after correcting Mr. Saba’s errors.

Background

10. The Saba Report provides Mr. Saba’s estimate of the fair market value of 100% of the equity of Theranos on a controlling, marketable basis for three distinct valuation dates, including December 31, 2014. The Saba Report also provides Mr. Saba’s opinion regarding the amount of the equity value of Theranos that should be allocated to all of the securities in Theranos’ capital structure, along with the alleged loss to Theranos C-1 and Series C-2 Preferred Stock investors resulting from the difference between his concluded value of their shares and their initial investment purchase price of \$15.00 and \$17.00 per share, respectively.² For purposes of this declaration, I focus my review of Mr. Saba’s analysis in the Saba Report solely on the analyses performed as of the December 31, 2014 valuation date (the “Valuation Date”) based on guidance provided by Counsel.

11. Mr. Saba’s opinions in the Saba Report are based on his implementation and reliance on (1) the discounted cash flow method (income approach) in combination with the guideline public company method (market approach) (the “Income Approach”) and (2) the

¹ United States District Court, Northern District of California, San Jose Division, Transcript of Sentencing Proceedings Before the Honorable Edward J. Davila, November 18, 2022, 79:4-17.

² Saba Report, paragraphs 5 and 6.

adjusted net asset value method (the “Asset Approach”) and the cost to recreate method (the “Cost Method”).³ Mr. Saba’s implementation of the Cost Method was specifically related to his opinion of the fair market value of Theranos’ “technology and branding assets” as of the Valuation Date.⁴ Finally, Mr. Saba implemented the option pricing theory to develop an equity allocation model to determine a value of each class of Theranos stock as of the Valuation Date.⁵

12. Mr. Saba’s various analyses result in a determination of the fair market value of the Theranos equity as of the Valuation Date ranging from \$827 million to \$951 million with the lower end of the range resulting from his implementation of the Asset Approach and the high end of the range resulting from his implementation of the Income Approach.⁶ Based on this range of fair market values, Mr. Saba determined that the range of Series C-1 Per Share Values was \$9.61-\$10.36 and the range of Series C-2 Per Share Values was \$10.80-\$11.63 as of the Valuation Date.⁷

Summary of Opinions

13. A summary of my opinions based my review of the Saba Report are as follows:

- Mr. Saba’s implementation of the Income Approach utilizes unreliable source data associated with his selection of the cost of equity that is a component of his discount rate determination. Because the implementation of the Income Approach is extremely sensitive to the cost of equity input, his fair market value conclusion of the equity of Theranos as of the Valuation Date based on the Income Approach is unreliable. Using a

³ Saba Report, paragraph 14.

⁴ Saba Report, paragraph 106.

⁵ Saba Report, paragraph 19.

⁶ Saba Report, paragraph 116.

⁷ Saba Report, paragraph 14.

more supportable cost of equity causes the value conclusion to increase substantially which, in turn, causes the alleged loss of the Investors to decrease substantially.

- Mr. Saba's implementation of the Cost Method to value Theranos' technology and branding assets as part of his implementation of the Asset Approach was performed incorrectly and, as such, is unreliable. More specifically, Mr. Saba does not include what is referred to as an "opportunity cost," which in this case is warranted as a proper component of the implementation of the Cost Method. Omitting an opportunity cost from his analysis causes the relevant portion of his fair market value conclusion of the equity of Theranos as of the Valuation Date to be significantly understated.

Mr. Saba's implementation of the Income Approach utilizes unreliable source data associated with his selection of the cost of equity that is a component of his discount rate determination

14. A key component of any valuation based on the implementation of an Income Approach is the selection of an appropriate discount rate. In the Saba Report, as it relates to his implementation of the Income Approach, Mr. Saba writes: "The present value determination is based on using a discount rate that reflects the expected rate of return that the market requires in order to attract funds to a particular investment. This rate is often referred to as a company's 'cost of capital.'"⁸

15. Mr. Saba goes on to state "Discount and capitalization rates, as used in an Income Approach to value a business, represent the return an investor would require in order to choose a particular investment. It represents anticipated future return; past returns, however, are often

⁸ Saba Report, paragraph 79.

used to help determine a reasonable future rate.”⁹ Upon a detailed review of his sources of market rates of return that are the basis for his discount rate determination, I found that he primarily relies on venture capital rate of return data that are quite old. For example, in Exhibit F.4 in the Saba Report where Mr. Saba cites venture capital rates of return, he lists data sources from the years 1989, 1998, 2000, 2002, and 2008. These rates range from 6 to 25 years prior to the Valuation Date.

16. However, we know that required rates of return on venture capital investments regularly change over time based on a variety of market dynamics. For example, the only source of required venture capital rates of return¹⁰ that Mr. Saba cites that are reported on an annual basis are from Craig R. Everett’s Private Capital Market Reports published by Pepperdine University (the “Pepperdine Studies”). Other than the Pepperdine Studies, I am not aware of any other source of venture capital rate of return data that is produced on an annual basis. Because the Pepperdine Studies are produced annually, I commonly rely on them to estimate discount rates for the implementation of an Income Approach for valuations I perform. While Mr. Saba only cites a 2021 version¹¹ of the Pepperdine Studies, such reports have been published on an

⁹ Saba Report, paragraph 99.

¹⁰ Per the Saba Report: “The present value determination is based on using a discount rate that reflect the expected rate of return that the market requires in order to attract funds to the particular investment. This rate of return is often referred to as a discount rate.” (See Saba Report, paragraph 79). The “required” rates of return reported by the Pepperdine Studies are consistent with the “expected” rate of return referred to by Mr. Saba in the context of selecting a discount rate for the implementation of the Income Approach.

¹¹ Professional standards generally require that valuation experts only rely on information that is “known or knowable” as of the selected valuation date. For example, the AICPA Statement on Standards for Valuation Services, “Valuation of a Business, Business Ownership Interest, Security, or Intangible Asset” states: “Generally the valuation analyst should consider only circumstances existing at the valuation date and events occurring up to the valuation date.” Because 2021 venture capital required rates of return are data from a time seven years beyond the Valuation Date, Mr. Saba should not have relied on such data because it was not “known or knowable” as of the Valuation Date.

annual basis since 2007 and reports as far back as 2009 are available on Pepperdine University's website.¹²

17. The annual Pepperdine Studies report median venture capital required rates of return for investments in "startup" and "early stage" companies as summarized in Table 1 below.¹³

Table 1
Summary of Median Venture Capital Rates of Return from the Pepperdine Studies

Year of Pepperdine Study	Median Venture Capital Required Rates of Return	
	Startup Companies	Early Stage Companies
2010	40%	36%
2011	40%	35%
2012	30%	28%
2013	28%	23%
2014	28%	27.5%
2015	33%	28%
2016	33%	28%
2017	35%	25%
2018	38%	33%
2019	33%	33%
2020	33%	33%
2021	33%	30%
Average	33.7%	30%

18. Table 1 above confirms that median required rates of return over the 12-year period ranged widely from 28% to 40% and averaged 33.7% for venture capital investments in startup companies and ranged widely from 23% to 36% and averaged 30% for venture capital

¹² https://digitalcommons.pepperdine.edu/gsbm_pcm_pcmr/.

¹³ Required rates of return for venture capital investments specifically in "startup" and "early stage" companies only began to be reported in the Pepperdine Studies as of 2010.

investments in early stage companies. It is clear from the data in Table 1 that venture capital required rates of return regularly change over time, and often significantly, even from year to year. As such, Mr. Saba's reliance on rates of return ranging from 6 to 25 years prior to the Valuation Date is unreliable when more such data at the time of the Valuation Date was available to him.

19. The 2015 Pepperdine Study, which was published on January 2, 2015, just three days after the Valuation Date, reports venture capital rates of return that would have likely been most consistent with investors' requirements at the Valuation Date equal to 33% for start-up companies and 28% for early stage companies.

20. Despite these contemporaneous and reliable rate of return data available to Mr. Saba, he chose to primarily rely on old, out-of-date venture capital rate of return data for his Income Approach analysis. Not only are the data on which he relies old and out-of-date as of the Valuation Date, but Mr. Saba's ultimate selection of a 45% equity rate of return for his discount rate calculation is not tied to any specific rate of return in the data. Exhibit F.4 in the Saba Report lists 84 individual rates of return data points ranging from as low as 3% to as high as 100%. Further, none of these 84 individual rates of return are specifically equal to 45%.

21. Mr. Saba's selected 45% equity rate of return is higher than the 23% to 40% range of median required rates of return for venture capital investments in startup and early stage companies from the Pepperdine Studies as shown in Table 1 above. 45% is also substantially higher than the 28% and 33% median required rates of return in startup and early stage companies, respectively, from the 2015 Pepperdine Study, which is the data that is most contemporaneous to the Valuation Date.

22. Finally, on December 31, 2014, the professional services firm Aranca provided Theranos with a report that reached conclusions regarding the fair market value of the common stock of Theranos as of December 14, 2014, just 17 days prior to the Valuation Date (the “Aranca Report”). In this report, Aranca used a cost of equity of 20.65% as part of its discount rate determination for the implementation of the Income Approach.¹⁴ Aranca relied upon some of the same sources of venture capital rates of return that Mr. Saba also references in the Saba Report. Importantly, Mr. Saba relied on the financial forecasts from the Aranca Report for his implementation of the Income Approach.¹⁵ However, despite using the same financial forecasts that reflected the same risks and uncertainties for valuations only 17 days apart, Mr. Saba selected a cost of equity over two times that selected by Aranca. Despite Mr. Saba’s attempt to explain the differences between his cost of equity selection and Aranca’s cost of equity selection, the fact is that both Aranca and Mr. Saba were attempting to measure the same risk and uncertainty of the same financial forecast for the same company only 17 days apart and the two valuations utilized significantly different cost of equity inputs. Notably, Aranca’s 20.65% cost of equity selection is significantly closer to the 28% cost of equity I reference form the 2015 Pepperdine Study than it is to Mr. Saba’s 45% rate.

23. Mr. Saba’s selected 45% rate of return causes his valuation conclusion from his implementation of the Income Approach to be substantially lower than it would have been if he has selected a rate of return consistent with venture capital investors requirements as of the Valuation Date. For this reason, Mr. Saba’s valuation conclusion resulting from his Income

¹⁴ Aranca Report, p. 43-44.

¹⁵ Saba Report, paragraph 70.

Approach is unreliable for determining (1) the fair market value of Theranos at the Valuation Date and (2) the alleged loss realized by the Investors as of the Valuation Date.

24. As an illustration, if Mr. Saba had used the 28% median rate of return for venture capital investments in early stage companies from the 2015 Pepperdine Study for his cost of equity input, his fair market value conclusion would have increased from \$951 million to \$1.48 billion.¹⁶ Further, using the \$1.48 billion fair market value of equity conclusion reduces the alleged loss to the Investors from approximately \$121.1 million¹⁷ to approximately \$59.9 million.¹⁸ Given that Theranos had existed for 11 years as of the Valuation Date and had generated revenue during certain years in the past, I believe a venture capital investor at the Valuation Date would have reasonably categorized Theranos as an early stage company as opposed to a seed or startup company as those terms are used in the Pepperdine Studies.

25. As a second illustration, if Mr. Saba had used the 20.65% cost of equity Arcana selected for its valuation fair market value conclusion would have increased from \$951 million to

¹⁶ See Appendix B, Exhibit 4.

¹⁷ United States District Court, Northern District of California, San Jose Division, Transcript of Sentencing Proceedings Before the Honorable Edward J. Davila, November 18, 2022, 87:17-20. The Court determined in connection with the sentencing of Elizabeth Holmes that the alleged loss realized by the Investors based on Mr. Saba's implementation of the Income Approach was \$121,093,891. My calculations using the same methodology have yielded an alleged loss of \$120,146,247 (see Appendix B, Exhibit 23), which is close but not precisely equal to the Court's figure. I have not been able to explain this relatively small discrepancy of \$947,644 with the information available to me. As such, all estimates of alleged loss realized by Investors for all fair market value scenarios covered in this declaration other than that based on Mr. Saba's implementation of the Income Approach are best estimates given the information available to me.

¹⁸ See Appendix B, Exhibit 2. For the purposes of this declaration, I have accepted Mr. Saba's equity allocation model. I understand my colleague Toby Reiff has been asked by Counsel to comment on the equity allocation model in a separate declaration.

\$1.82 billion.¹⁹ Further, using the \$1.82 billion fair market value of equity conclusion reduces the alleged loss to the Investors from \$121.1 million²⁰ to approximately \$30.7 million.²¹

Mr. Saba's implementation of the Cost Method as part of his implementation of the Asset Approach was performed incorrectly and, as such, is unreliable

26. Mr. Saba's implementation of the Cost Method was specifically used to value Theranos' "technology and branding assets" as of the Valuation Date.²² He then used his determined value of the Theranos technology and branding assets as an input to his implementation of the Asset Approach.

27. The Cost Method is standardly implemented using four primary steps:

1. Determination of direct and indirect costs necessary to replace the utility of the asset being valued
2. Adjustments for obsolescence associated with the asset being valued
3. The addition of a profit mark-up on the included costs (typically referred to as a "developer's profit")
4. The addition of an opportunity cost (sometimes referred to as the "entrepreneurial incentive")

28. These four steps are referenced in (among many other authoritative valuation resources) the International Valuation Standards ("IVS") associated with valuing intangible

¹⁹ See Appendix B, Exhibit 8.

²⁰ United States District Court, Northern District of California, San Jose Division, Transcript of Sentencing Proceedings Before the Honorable Edward J. Davila, November 18, 2022, 87:17-20.

²¹ See Appendix B, Exhibit 6. For the purposes of this declaration, I have accepted Mr. Saba's equity allocation model. I understand my colleague Toby Reiff has been asked by Counsel to comment on the equity allocation model in a separate declaration.

²² Saba Report, paragraph 106.

assets.²³ IVS was created, and is published, by the International Valuation Standards Council (“IVSC”), an independent global standard setter for the valuation profession. Notably, the American Institute of Certified Public Accountants (“AICPA”) and American Society of Appraisers (“ASA”), two organizations that Mr. Saba has an affiliation with, are both sponsors²⁴ and members²⁵ of IVSC.

29. Mr. Saba’s implementation of the Cost Method to value the Theranos technology and branding assets mistakenly does not include a calculation of the opportunity cost. Omitting an opportunity cost from his analysis causes his fair market value conclusion of the equity of Theranos as of the Valuation Date based on the Asset Approach to be incorrect and significantly understated. Mr. Saba does not even mention the concept of an opportunity cost at any point in his report. As such there is no indication that he considered this aspect of the Cost Method and he does not provide any basis for excluding it from his analysis.

30. In addition to the IVS, there are many other notable references to the inclusion of an opportunity cost in the implementation of the Cost Method. For example, on December 10, 2007, in remarks before the 2007 AICPA National Conference on Current SEC and PCAOB Developments, Sandie E. Kim (Professional Accounting Fellow, Office of the Chief Accountant at the United States Securities and Exchange Commission) stated:

For certain intangible assets, it may be appropriate to use a replacement cost approach. In order to determine the replacement cost of an intangible asset, do not forget to ask the following question: “Would a market participant pay a premium for the benefit of having the intangible asset available for use today, rather than waiting until the asset is obtained or created?” If the answer is yes, and the premium for immediate use would be material, we believe that an “opportunity cost” should be considered in the fair value of the intangible asset under a replacement cost

²³ See for example, International Valuation Standards (Effective 31 January 2022), IVS 210 Intangible Assets, paragraph 70.7.

²⁴ <https://www.ivsc.org/sponsors/>.

²⁵ <https://www.ivsc.org/members/>.

approach. That opportunity cost represents the foregone cash flows during the period it takes to obtain or create the asset, as compared to the cash flows that would be earned if the intangible asset was on hand today.²⁶

31. Noted intellectual property valuation expert Robert F. Reilly (“Mr. Reilly”) has spoken and written about the inclusion of an opportunity cost as part of the implementation of the Cost Method on many occasions. For example, in an article titled “The Cost Approach To Intellectual Property Analysis—Methodology and Principles,” published in *les Nouvelles* (a journal published quarterly by LES) in December 2021, Mr. Reilly wrote:

The intellectual property cost measurement metric should consider the following four cost components... An opportunity cost/entrepreneurial incentive (such as a measure of lost income or other opportunity cost during the intellectual property development period adequate to motivate the development process)...The entrepreneurial incentive cost component is often measured as either: 1. The income that the developer would lose during the intellectual property replacement/development period, or 2. A fair rate of return on the amount of the investment in the total intellectual property cost metric—during the intellectual property replacement/development period. The lost income concept of entrepreneurial incentive is often considered in the context of a willing buyer’s “make versus buy” decision. For example, let’s consider a hypothetical willing buyer and a hypothetical willing seller (as in, the current owner) of a patent. Let’s assume that it would require a two-year period for a hypothetical willing buyer to develop a replacement patent (as in, the elapsed amount of time required to develop a new non-infringing invention). If the buyer decided to buy the seller’s actual patent, then the buyer could start earning income from it (either operating income or ownership license income) immediately. In contrast, if the buyer decided to make and register its own hypothetical, non-infringing replacement patent, then the buyer would earn no income (either operating income or ownership license income) from the replacement patent during the two year replacement/development period. The total of the two years of lost income during the hypothetical replacement patent development period represent the opportunity cost of making (i.e., developing) a de novo, non-infringing replacement patent. All four cost components—direct costs, indirect costs, developer’s profit, and entrepreneurial incentive—are typically considered in the intellectual property cost approach valuation analysis.²⁷

²⁶ <https://www.sec.gov/news/speech/2007/spch121007sek.htm>.

²⁷ “The Cost Approach To Intellectual Property Analysis—Methodology and Principles,” Robert F. Reilly, *les Nouvelles*, December 2021.

32. These cites make up a small sample of the various references to the inclusion of an opportunity cost in materials that describe the use of the Cost Method to value intellectual property and other intangibles assets.

33. There is no indication that facts and circumstances associated with the valuation of Theranos' technology and branding assets as of the Valuation Date should exclude an opportunity cost calculation. As such, I have corrected Mr. Saba's error by reproducing his Cost Method calculations and adding an opportunity cost.

34. According to the Saba Report, 95% of the operating expenses incurred by Theranos for the 11 years prior to the Valuation Date (beginning in 2004) were attributable to the development of Theranos' technology and branding assets.²⁸ Mr. Saba did not provide any information in the Saba Report regarding the amount of time it would likely take to replace the Theranos technology and branding assets as of the Valuation Date. As such, I have used the 11-year actual, historical development period as a proxy for the time it would take to replace the Theranos technology and branding assets with an acceptable replacement. The 11-year development period experience by Theranos is a reasonable assumption given the information available to me as of the date of the declaration. To quantify the opportunity cost over the relevant estimated 11-year replacement period, I used the same 44% rate of return that Mr. Saba used for his discount rate as part of the implementation of the Income Approach.

35. Correcting Mr. Saba's analysis as describe above increases the fair market value of the equity of Theranos as of the Valuation Date from \$827 million to \$1.38 billion.²⁹ Further,

²⁸ Saba Report, paragraph 109.

²⁹ See Appendix B, Exhibit 13.

using the \$1.38 billion fair market value conclusion reduces the alleged loss to the Investors from \$121.1 million to \$69.9 million.³⁰

36. Consistent with my critique of Mr. Saba's selected cost of equity as used in his Income Approach analysis, if one were to use a 27% rate of return for purposes of quantifying the opportunity cost (consistent with a discount rate based upon a 28% cost of equity), the fair market value of the equity of Theranos as of the Valuation Date would be \$1.16 billion.³¹ Further, using the \$1.16 billion fair market value conclusion reduces the alleged loss to the Investors from \$121.1 million to \$92.9 million.³²

Conclusion

37. As described above, Mr. Saba made at least the following errors in the Saba Report:

- Mr. Saba utilized unreliable source data related to his cost of equity and discount rate determinations as part of his implementation of the Income Approach
- Mr. Saba excluded an opportunity cost from his implementation of the Cost Method and Asset Approach

38. Both of these errors cause Mr. Saba's conclusions of the fair market value of the equity in Theranos as of the Valuation Date, and the alleged losses realized by the Investors, to be unreliable. The following table summarizes Mr. Saba's incorrect conclusions and alternative conclusions after correcting his errors.

³⁰ See Appendix B, Exhibit 10.

³¹ See Appendix B, Exhibit 17.

³² See Appendix B, Exhibit 15.

Table 2
Summary of Mr. Saba's Conclusions and
Alternative Conclusions After Correcting for Mr. Saba's Errors³³

	Fair Market Value of the Equity of Theranos as of December 31, 2014	Alleged Loss Realized by the Investors
Saba Income Approach (45% Cost of Equity)	\$ 951,000,000	\$ 121,093,891
Alternative Income Approach (28% Cost of Equity)	\$ 1,487,000,000	\$ 59,901,246
Alternative Income Approach (20.65% Cost of Equity)	\$ 1,815,000,000	\$ 30,712,617
Saba Asset Approach (No Opportunity Cost) ³⁴	\$ 827,000,000	--
Corrected Asset Approach (Opportunity Cost Added Using 44% Rate of Return)	\$ 1,376,000,000	\$ 69,874,441
Corrected Asset Approach (Opportunity Cost Added Using 27% Rate of Return)	\$ 1,169,000,000	\$ 92,913,676

39. The range of values shown above in Table 2 demonstrate that valuation analyses such as the one Mr. Saba performed by their very nature are based on a variety of inputs and assumptions that require judgment. Such ambiguity commonly causes there to be a variety of widely different valuation conclusions that can be generated from any given valuation exercise.

40. Counsel has requested that I also calculate the alleged loss realized by three subgroups of the Investors as follows:

³³ See Appendix B, Exhibit 1.

³⁴ I have not reported the alleged loss realized by Investors associated with Mr. Saba's implementation of the Asset Approach as those amounts would be based on a demonstrably incorrect implementation of the Cost Method and Asset Approach as documented earlier. As such, I believe that any alleged loss amount based on Mr. Saba's implementation of the Asset Approach should not be relied upon under and scenario.

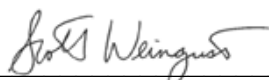
- The Investors less Rupert Murdoch
- The Investors less RDV
- The Investors less Rupert Murdoch and RDV

41. The following table represents the results of these calculations:

Table 3
Summary of Alleged Loss to Investors and Subgroups of Investors³⁵

	Alleged Loss Realized by the Investors	Alleged Loss Realized by the Investors Less Rupert Murdoch	Alleged Loss Realized by the Investors Less RDV	Alleged Loss Realized by the Investors Less Rupert Murdoch and RDV
Saba Income Approach (45% Cost of Equity)	\$ 121,093,891	\$ 80,660,954	\$ 88,558,017	\$ 49,072,723
Alternative Income Approach (28% Cost of Equity)	\$ 59,901,246	\$ 40,075,893	\$ 44,038,238	\$ 24,226,523
Alternative Income Approach (20.65% Cost of Equity)	\$ 30,712,617	\$ 20,405,632	\$ 22,466,080	\$ 12,163,848
Saba Asset Approach (No Opportunity Cost) ³⁶	--	--	--	--
Corrected Asset Approach (Opportunity Cost Added Using 44% Rate of Return)	\$ 69,874,441	\$ 46,805,270	\$ 51,419,107	\$ 28,349,936
Corrected Asset Approach (Opportunity Cost Added Using 27% Rate of Return)	\$ 92,913,676	\$ 62,324,630	\$ 68,442,442	\$ 37,853,397

November 30, 2022



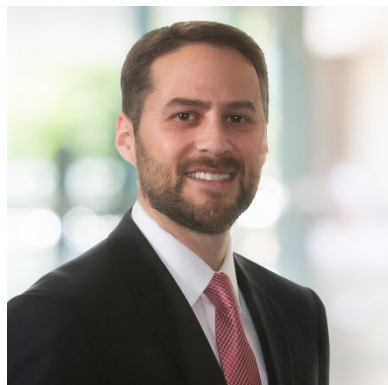
Scott Weingust

³⁵ See Appendix B, Exhibit 1.

³⁶ I have not reported the alleged loss realized by Investors or subgroups of Investors associated with Mr. Saba's implementation of the Asset Approach as those amounts would be based on a demonstrably incorrect implementation of the Cost Method and Asset Approach as documented earlier. As such, I believe that any alleged loss amount based on Mr. Saba's implementation of the Asset Approach should not be relied upon under and scenario.

Appendix A

Scott Weingust
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 Intellectual Property Valuation Expert



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Education

B.A., Economics
 University of Wisconsin - Madison

B.A., International Relations
 University of Wisconsin - Madison

Certificate in International Business
 Studies

University of Wisconsin - Madison
 School of Business, Center for
 International Business Studies

Industry Focus

Aerospace, Defense & Transportation
 Automotive
 Business Services
 Consumer, Retail, Food & Beverage
 Diversified Industrials
 Energy & Utilities
 Healthcare & Life Sciences
 Pharmaceuticals & Biotechnology
 Technology, Media &
 Telecommunications

Practice Areas

Intellectual Property Valuation
 Intellectual Property Transactions
 Intellectual Property Disputes
 Bankruptcy
 Corporate Tax
 Financial Reporting
 Trusts & Estates
 Complex Business Litigation

Scott Weingust is the leader of Stout's Intellectual Property Valuation practice. Mr. Weingust has more than 26 years of experience providing consulting services to corporations, law firms, universities, and investment firms primarily in the areas of intellectual property (IP) valuation, damages, monetization, and management. His practice focuses on patents, trademarks, copyrights, trade secrets, the right of publicity (i.e., name, image, and likeness), software, domain names, and other intangible assets.

Mr. Weingust has provided testimony as a damages and valuation expert in IP-related litigation including having offered opinions in Federal District Court. He has testified on a variety of dispute matters including those with claims associated with patent infringement, trade secret misappropriation, fraudulent transfer, breach of contract, and others. Mr. Weingust has also led project teams on a variety of pre-case and early-case assessments of IP-related damages to assist with decisions related to whether a case should be filed and/or financed, and to support dispute resolution efforts.

Mr. Weingust has performed due diligence and valued IP and other intangible assets for a variety of purposes including: transactions (licensing, purchase/sale, joint ventures, mergers and acquisitions), tax strategy and compliance (related-party transactions, trust & estate issues), corporate strategic decision-making, use of intellectual property to attract capital (debt and equity financing), financial reporting, regulatory compliance (Stark Law, Anti-Kickback Statute), and bankruptcy, among others. He has been directly involved in IP licensing negotiations and has developed many dynamic IP pricing/valuation models for corporate licensing activities and investment decisions.

Mr. Weingust is currently an adjunct professor at DePaul University's College of Law where he teaches a course on IP valuation. He has also previously taught classes on IP valuation and related topics at the New York University School of Law, The John Marshall Law School, Michigan State University's College of Law, and the Illinois Institute of Technology's Chicago-Kent College of Law. Mr. Weingust has spoken at conferences or other events for many organizations including the Intellectual Property Owners Association (IPO), Licensing Executives Society (LES), American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), and the Intellectual Property Law Association of Chicago (IPLAC), among others.

Prior to joining Stout, Mr. Weingust worked in the Intellectual Property groups at FTI Consulting and Deloitte.

Recognition

- Recognized as one of the world's leading IP strategists as part of the *IAM Strategy 300* from 2017 to 2022.
- Recognized as one of the world's leading patent professionals as part of the *IAM Patent 1000* from 2020 to 2022.

Professional Memberships

- Intellectual Property Owners Association (IPO) – Past Secretary of the Corporate IP Management Committee
- Licensing Executives Society (LES) – Past Chair of the Valuation & Pricing Committee
- National Association of Certified Valuators and Analysts (NACVA)
- American Intellectual Property Law Association (AIPLA)

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Trial Testimony Experience

Rodney D. Tow, Chapter 7 Trustee of AmeriSciences, L.P. v. Organo Gold Int'l, Inc., et al., U.S. District Court, Southern District of Texas, Houston Division, May 2018

Pearl Software, Inc. and Helios Software, LLC v. SpectorSoft Corporation, U.S. District Court, District of Delaware, June 2015

Written and Deposition Testimony Experience

In re: Marriage of Stephanie Burke and Michael Burke, Circuit Court of The Nineteenth Judicial Circuit, Lake County, Illinois, 2022 (Expert Report) (Marriage dissolution; valuation of trade secrets and know-how associated with a pharmaceutical product for pain management)

Maiden Biosciences, Inc. v. DSS, Inc. f/k/a Document Security Systems, Inc., Decentralized Sharing Systems, Inc., HWH World, Inc. f/k/a Bliss International, Inc., RBC Life Sciences, Inc., RBC Life International, Inc., and RBC Life Sciences USA, Inc., United States District Court, Northern District of Texas, Dallas Division, 2022 (Expert Report and Rebuttal Expert Report) (Fraudulent transfers or conveyances; valuation of a patent, trademarks, distributor lists, software, domain names, license agreements, product registrations, and product formulations related to the direct selling of nutritional supplements and body care products)

Mr. Patrick Whalen v. Mr. Ayman Kamel, United District Court for the Western District of North Carolina, Charlotte Division, 2021 (Expert Declaration) (Dissolution of partnership and related notice of removal; valuation of trademarks associated with a group of restaurants)

Timothy McTighe, LLC v. Signature Life Sciences, LLC and Signature Orthopaedics, Pty., Ltd., United States District Court, Northern District of Ohio, Eastern Division, 2021 (Expert Report and Deposition Testimony) (Breach of contract and fraudulent inducement; valuation of a patent holding company with assets related to hip implant technology)

In re: The Marriage of Janice LeVan and Kurtis LeVan, Lake Superior Court, State of Indiana, County of Lake, 2021 (Expert Reports) (Marriage dissolution; valuation of certain trademarks and patents used in the construction industry)

In re: The Marriage of Michael C. Callans and Judy A. Callans, Circuit Court of Cook County, Illinois, County Department – Domestic Relations Division, 2021 (Expert Report) (Marriage dissolution; valuation of a domain name)

In re: Media Operations Liquidating Company, LLC f/k/a Ebony Media Operations, LLC, et al., U.S. Bankruptcy Court, Southern District of Texas, Houston Division, 2021 (Expert Report) (Dispute regarding the value of certain collateral securing notes provided to the debtors; valuation of copyrights associated with issues of *Ebony* and *Jet* magazines)

In re: Amit Bhalla, China Central Television, et al., v. Amit Bhalla and Rena Mehta Bhalla, U.S. Bankruptcy Court, Middle District of Florida, Tampa Division, 2020 (Expert Report) (Fraudulent transfers and/or fraudulent asset conversions; valuation of trademark infringement and copyright infringement monetary remedies associated with certain Chinese-language television programming)

True Chemical Solutions, LLC v. Performance Chemical Company, U.S. District Court, Western District of Texas, Midland-Odessa Division, 2020 (Expert Report and Deposition Testimony) (Patent infringement; damages related to trailers used to pump chemicals used in fracking for the oil and gas industry)

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(1) Surgicraft Limited (in Compulsory Liquidation), (2) Peter Saville, (3) Anne O’Keefe ((2) and (3) as Joint Liquidators of Surgicraft Limited) and (1) Centinel Spine Inc (2) John Viscogliosi (3) Anthony Viscogliosi, High Court of Justice of England, 2017 (Expert Response, Expert Reply Response, and Mediation Participation) (Undervalue transactions; valuation of U.S. and U.K. trademarks and patent applications related to spinal implant technology and products)

Cecchi Gori Pictures and Cecchi Gori USA, Inc. v. G&G Productions, LLC, Gabriele Israilovici, Giovanni Nappi, Vittorio Cecchi Gori, et al., U.S. Bankruptcy Court, Northern District of California, San Jose Division, 2017 (Expert Report) (Fraudulent transfer; valuation of copyrighted movie scripts)

Rodney D. Tow, Chapter 7 Trustee of AmeriSciences, L.P. v. Organo Gold Int’l, Inc., et al., U.S. District Court, Southern District of Texas, Houston Division, 2017 (Expert Report and Rebuttal Expert Report) (Fraudulent transfer and trade secret misappropriation; valuation of a multi-level marketing distributor network)

Samson Lift Technologies LLC v. Jerr-Dan Corporation and Oshkosh Corporation, Supreme Court of the State of New York, New York County, 2014 (Rebuttal Expert Report and Deposition Testimony) (Breach of contract; valuation of alleged lost patent protections related to automotive towing vehicle technology)

Pearl Software, Inc. and Helios Software, LLC v. Awareness Technologies, Inc. and Remote Computer Observation & Monitoring, LLC d/b/a Remote.com, U.S. District Court, District of Delaware, 2013-2014 (Expert Report, Reply Expert Report, and Deposition Testimony) (Patent infringement; damages related to computer monitoring software)

Pearl Software, Inc. and Helios Software, LLC v. SpectorSoft Corporation, U.S. District Court, District of Delaware, 2013-2014 (Expert Report, Reply Expert Report, Supplemental Expert Report, and Deposition Testimony) (Patent infringement; damages related to computer monitoring software)

Climb Tech, LLC and K.E. Guthrie & J.D. Schwartz Designs, LLC v. Gene Verble, Darrell Hagler, Eric W. Reeves, and Valcor Industries, LLC, U.S. District Court, Western District of Texas, Austin Division, 2008 (Expert Report and Deposition Testimony) (Patent infringement, trade secret misappropriation, breach of contract, tortious interference, and unfair competition; damages related to fall protection equipment technology)

Publications

“Enhanced Voice Services: Patent Landscape,” www.stout.com, May 16, 2022

“Introduction to Trade Secret Valuation,” Chapter 4 from the book *Practical Guide to Successful Intellectual Property Valuation and Transactions*, Wolters Kluwer, 2022

“Roundtable on Intellectual Property/Patent Law: Keeping ideas and technologies secure,” Crain’s Chicago Business, November 8, 2021

“Diving Below the Surface: Challenges with Determining FRAND Royalty Terms for SEPs Using the ‘Top-Down Method,’” *Intellectual Property Magazine*, July/August 2021

“Michael Jackson’s Estate Moonwalks Past the IRS in Tax Court Battle,” www.stout.com, May 20, 2021

“Insights from Intellectual Property Expert David Kappos,” *The Journal*, Fall/Winter 2019

“Methods for Determining FRAND Licensing Terms for SEPs,” *The Journal*, Spring/Summer 2019

“Selecting Discount Rates for Valuing Early-Stage Intellectual Property,” *The Journal*, Spring/Summer 2018

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- "Takeaways from Ericsson v. D-Link, et al.," www.stout.com, April 17, 2018
- "Chloe Kim's Right of Publicity: The Value of Gold," www.stout.com, February 21, 2018 and *Law360*, February 23, 2018
- "Setting the Standard for Intellectual Property: Insights From Bill Elkington," *The Journal*, Fall/Winter 2017
- "Tricks of the Trade(mark): An Introduction to Trademark Valuation," *The Journal*, Fall/Winter 2017
- "Giving Up Control: Self-Driving Cars and Intellectual Property," www.stout.com, June 2017
- "Artificial Intelligence: Does It Work for Patent Valuation?" *The Journal*, Spring/Summer 2017
- "Where We've Come From and Where We're Going With Intellectual Property," an interview with Q. Todd Dickinson, *The Stout Journal*, Spring/Summer 2017
- "Why Private Equity and Venture Capital Firms Should Care About Intellectual Property Assets," *The Journal*, Spring/Summer 2017
- "When Imitation is Not a Form of Flattery: The Importance of Intellectual Property Registration in Cuba," www.stout.com, January 24, 2017
- "IP Litigation Funding Smack Down: How Hogan v. Gawker Highlights Changes in Litigation Financing," www.stout.com, November 2016
- "'Market Value' Damages: What Are the Implications of Aqua Shield?" *Stout Journal*, Spring 2016, reprinted in *LES Insights*, June 11, 2016
- "Prince's death: How will his intellectual property and estate be handled?" *Stout Estate and Gift Tax Valuation Blog*, May 10, 2016
- "Q&A: Creating value through IP asset management and valuation," *Financier Worldwide Magazine*, January 2016
- "Valuing Intellectual Property for Estate-Planning Purposes," *Trusts & Estates*, December 21, 2015
- "Common Errors Committed When Valuing Patents – Part 3: Focus on the Cost and Market Approaches," *Stout Journal*, Fall 2015
- "The Attorney's Role in Assisting Clients with Patent Valuation," *Landslide®*, a Publication of the ABA Section of Intellectual Property Law, September/October 2015
- "Common Errors Committed When Valuing Patents – Part 2: Focus on the Income Approach," *Stout Journal*, Spring 2015
- "Exploring the Nondiscriminatory Aspect of RAND Licensing Terms," *Stout Journal*, Fall 2014, republished on *Law360*, January 29, 2015
- "Valuing Intellectual Property in the Context of a Divorce Proceeding," *Stout Journal*, Fall 2014
- "Use/Misuse of Patent Purchase Price in Patent Infringement Damages Analysis," www.stout.com, July 2014, republished on *Law360*, August 11-12, 2014.
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“The Great Patent Troll Debate – Two Perspectives,” interviews with Bill Sorrell (Vermont Attorney General) and Tony Brown (Founder and CEO of Cascades Ventures), *Stout Journal*, Spring 2014 and Law360, May 13-15, 2014

“Common Errors Committed When Valuing Patents – Part I,” *Stout Journal*, Spring 2014

“Intellectual Property Valuation,” *Business and Litigation Issues Section of the IPO Law Journal*, a whitepaper authored by members of the Intellectual Property Owners Association (IPO) Corporate IP Management Committee, October 2013

“Have IP Assets, Need Money! The Role of IP Valuation in Startup Investment,” *Stout Journal*, Fall 2013 and *Preferred Returns*, the Newsletter of the Private Equity and Venture Capital Committee of the Business Law Section of the American Bar Association, September 2013

“Using the Monte Carlo Method to Value Early Stage, Technology-Based Intellectual Property Assets,” *Stout Journal*, Spring 2013

“New ADR Process Facilitates Call for Refined Use of Damages Experts in Patent Litigation by Judges Rader and Posner In Order To Resolve Patent Conflicts,” *Just Resolutions E-News*, Dispute Resolution Section of the American Bar Association, May 2013

“New ADR Process Facilitates Call by Judges Rader and Posner for Better Use of Damages Experts in Patent Litigation,” *Stout Journal*, Fall 2012

“Why Private Equity and Venture Capital Firms Should Care About Intellectual Property Assets,” *Preferred Returns*, the Newsletter of the Private Equity and Venture Capital Committee of the Business Law Section of the American Bar Association, March 2012 and *Stout Journal*, Fall 2012

“Maximizing the Value of Intellectual Property: Assessing and Improving Intellectual Property Management Practices Across the Entire Intellectual Property Lifecycle,” *Global Intellectual Property Asset Management Report*, April 2008

“The Challenge of Creating Innovation Networks,” Financial Aspects of Intellectual Property blog, March 2007

“Enhancing Technology Transfer Programs at Our Nation’s Universities: Turning Government Funds into New Sources of Revenue,” National Association of College and University Business Officers 2004 Annual meeting, July 2004

Speeches and Seminars

“Intellectual Property Valuations for Related Party Transactions,” Tax Executives Institute (TEI)-Pittsburgh Chapter, 2022

“Intellectual Property Valuation,” guest lecturer at Michigan State University College of Law’s Intellectual Property Practicum class, 2021

“Intellectual Property Valuation: What You Need to Know,” a presentation given to attorneys at Jackson Walker LLP, 2021

“IoT: SEP Licensing Across Non-Traditional Verticals,” IPWatchdog’s Standard Essential Patents 2021: A Patent Masters™ Virtual Symposium, 2021

“Intangible Assets and IP Rights: Do They Matter for Valuation and Success,” IPWatchdog Live, 2021

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“The Value of Michael Jackson’s Intellectual Property After His Death,” an interview/podcast by the Taxgirl, Kelly Phillips Erb, published on The Exchange by Bloomberg Tax, 2021

“NIL and NFT,” panel discussion regarding name, image and likeness, and non-fungible tokens at Sports Philanthropy World conference, 2021

“Nonprofits as Brands,” panel discussion at Sports Philanthropy World conference, 2021

“Intellectual Property Valuation for Entrepreneurs and Start-ups,” an educational course for members of mHUB a Chicago-based innovation center for entrepreneurs and start-ups focused on physical product development and manufacturing, 2018, 2019, 2021

“Estate Planning and Intellectual Property Assets: Valuation, Transfers, Taxes, Strategies for Counsel,” Stafford webinar, 2021

“Intellectual Property Valuations for Related Party Transactions,” Tax Executives Institute (TEI)-Western Michigan Chapter, 2021

“Standard Essential Patent Licensing Strategies,” World Intellectual Property Forum, 2021

“Patent Valuation,” guest lecturer at New York University Law School’s Patent Licensing class, 2015, 2017, 2019, 2020, and 2021

“Standard Essential Patent (SEP) Licensing Strategies,” Stout IP Insights Webinar Series, 2021

“Masterclass: The art of pricing and valuing IP,” panelist, IPBC Connect, 2020

“Valuation for Intellectual Property Licensing,” a continuing education course presented to GE licensing professionals, 2020

“Show Me The Money! IP Valuation Considerations for the Media and Entertainment Industry,” Stout IP Dialogue and Dinner Continuing Legal Education Event, 2020

“Practical Tips for Helping Companies Improve Their Intellectual Property Valuation Efforts and Outcomes,” presentation to the Intellectual Property Owners Association (IPO) Corporate IP Management Committee, 2019

“Intellectual Property Valuation: Best Practices to Increase Quality and Decrease Risk,” IP Law & Management Institute, 2019

“Valuing Intellectual Property: The Basics You Need to Know,” a continuing legal education course presented to Marshall, Gerstein & Borun LLP, 2019

“Improving IP Valuation Outcomes Through the Use of Standards,” moderator and panelist at the Licensing Executives Society’s (LES) Leading Edge Series conference: “Driving Innovation: Standards in Licensing and Intellectual Capital Management,” 2019

“Gray Market Goods,” a continuing legal education presentation for attorneys at Toyota Motor North America, 2019

“IP is an Asset – Learn How to Value It,” a full-day training session sponsored by the Toronto Chapter of the Licensing Executives Society (LES), 2019

“IP Valuation for Emerging Enterprises: The Why and The How,” Licensing Executives Society (LES) webinar, 2018

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“Introduction to Intellectual Property Valuation,” presentation to members of the Intellectual Property Law Association of Chicago, 2018

“Intellectual Property Valuation,” a full-day training session provided as part of the Licensing Executives Society’s LES University “IP Licensing for Business Development” course, 2015, 2016, 2017, and 2018

“Intellectual Property Valuation 101,” a continuing legal education course presented to Leydig, Voit & Mayer, Ltd., 2018

“Intellectual Property Value Extraction: Strategies and Tactics,” North Shore Corporate IP Roundtable, 2018

“Economic Considerations for Patent Litigation Financing,” moderator and panelist at the Licensing Executives Society International (LESI) Annual Meeting, 2018

“Overview of International Valuation Standards (IVS) 2017,” presentation to the Aerospace Industries Association, 2017

“For What It’s Worth: Fundamentals of IP Valuation,” DePaul University College of Law, 2017

“Overview of the International Valuation Standards (IVS) 2017,” presentation to the Licensing Executives Society (LES) Intellectual Property Valuation Standards committee, 2017

“Valuing Intellectual Property,” a continuing legal education course presented to McAndrews, Held & Malloy, Ltd., 2017

“IP Valuation 101,” a continuing legal education course presented to Neal, Gerber & Eisenberg LLP, 2017

“Intellectual Property Valuation,” part of the Licensing Executives Society’s LES University “Business Development in Life Sciences” course, 2015, 2016, and 2017

“An Introduction to Intellectual Property Valuation,” a continuing legal education course presented to Clark Hill PLC, 2017

“When IP Valuation and Damages Collide!” 15th Annual Rocky Mountain Intellectual Property & Technology Institute, 2017

“Valuing the Right of Publicity,” a continuing legal education course presented to Mandell Menkes LLC, 2017

“International Valuation Standards: How Do They Affect IP Valuation,” presentation to the Licensing Executives Society’s (LES) Valuation & Pricing Committee, 2017

“Trade Secrets and Know-How: Unique Valuation Issues,” Licensing Executives Society (LES) webinar, 2017

“Valuation of Intellectual Property,” Clear Law Institute webinar, 2017

“Advanced Intellectual Property Valuation and Negotiation,” a training course delivered on behalf of the Licensing Executives Society (LES) to business development professionals from MedImmune and AstraZeneca, 2017

“Valuation of Patents, Trademarks, Copyrights, and Trade Secrets: An Orientation to Intellectual Property Appraisal,” State Bar of Michigan Intellectual Property Law Spring Seminar, 2017

“Telehealth: Intellectual Property Valuation for Growth and Funding,” DePaul University College of Law’s Annual Health & IP Law Symposium, 2017

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“Use/Misuse of Patent Purchase Price in Patent Infringement Damages Analysis,” American Intellectual Property Law Association (AIPLA) Mid-Winter Institute, 2017

“Valuation for Intellectual Property Licensing,” presentation to the Intellectual Property Owners Association’s (IPO) Licensing Committee, 2017

“Outlining a Patent Policy for the New Administration,” panel moderator at IAM’s Patent Law and Policy 2016 conference, 2016

“Numbers Are Your Friends: Exploring the Intersection of IP Valuation and Damages,” *Stout* 2016 Intellectual Property Boot Camp, 2016

“The Use of Valuation Concepts in Patent Damages: The Multimillion Dollar Question,” presentation to the Intellectual Property Owners Association’s (IPO) Damages and Injunctions Committee, 2016

“Internet of Things: Protecting and Profiting From Your Company’s Knowledge Assets and IoT Innovations,” Licensing Executives Society (LES) webinar, 2016

“Valuing the Right of Publicity,” American Bar Association (ABA) Section of Litigation *Sound Advice*, 2016

“Insights into IP Issues Associated with Mergers & Acquisitions and Social Media,” a continuing legal education course presented to Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 2016

“Oil & Gas v. Life Sciences: A Comparison of IP Valuation and Licensing Best Practices Across Industries,” Licensing Executives Society (LES) Spring PanAm Meeting, 2016

“Valuation of Trade Secrets and Know-How,” presentation to the Intellectual Property Owners Association’s (IPO) Corporate IP Management Committee, 2016

“Contemporary Issues Affecting Patent Value,” presentation to the Limited Partners of a patent investment firm, 2015

“Let’s Make a Deal! Strategy, Due Diligence, and Valuation Considerations for Patent Transactions,” 2nd Annual *Stout* Intellectual Property Symposium, 2015

“Will My Patent Make Cents? How Courts and the USPTO Affect Patent Portfolio Value,” American Bar Association (ABA) Landslide® Webinar Series, 2015

“Corporate IP Management Best Practices,” Intellectual Property Owners Association (IPO) Annual Meeting, 2015

“IP in Bankruptcy,” American Bar Association (ABA) IP Roundtable, addressing intellectual property valuation in the context of a bankruptcy, 2015

“Maximizing Tangible Benefits from Your Intangible Assets: An Intellectual Property Monetization Case Study,” part three of a three-part workshop series for the University of Chicago’s Chicago Innovation Exchange, 2015

“Determining the Value of Your Emerging Company’s Intellectual Property,” part two of a three-part workshop series for the University of Chicago’s Chicago Innovation Exchange, 2015

“Patent Infringement Damages,” a continuing legal education course presented to Godfrey & Kahn S.C., 2015

“Assessing and Incorporating Risk and Uncertainty in the Valuation of Early-Stage Intellectual Property,” Licensing Executives Society (LES) Spring Meeting, 2015

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"In the Trenches: How are Patent Plaintiffs Proving Their Damages?" DRI Intellectual Property Litigation Seminar, 2015

"Intellectual Property Valuation: A Primer for Determining the Value of Your Patents, Trademarks, Trade Secrets, and Copyrights," presentation to the Detroit Chapter of Financial Executives International (FEI), 2015

"Navigating the Patent Damages Minefield," addressing the use of patent purchase prices in patent infringement damages analysis, The John Marshall Law School 59th Annual Intellectual Property Law Conference, 2015

"Moving to the Next Level: Valuation & Financing Considerations and Employment Strategies for Start-Ups and Emerging Technology Companies," moderator and panelist at an event co-sponsored by Epstein Becker Green and Stout Risius Ross, 2015

"U.S. Case Law Overview and Relevant Issues for Determining FRAND Licensing Terms," presented to members of the Japan Institute of Intellectual Property and the University of Tokyo, 2014

"What Investors Need to Know About FRAND," IP Dealmakers Forum, 2014

"Intellectual Property Valuation – A Case Study: Insights into How a Company Should Approach IP Valuation Issues in Various Contexts," The Corporate IP Institute at Georgia State University, 2014

"Intellectual Property Valuation – A Case Study," Intellectual Property Owners Association (IPO) Annual Meeting, 2014

"Unlocking the Hidden Value (and Savings) in Your Intellectual Property Portfolio," First Chair Awards Conference, 2014

"How to Value Your Brand and Other 'Soft' Assets," Financial Poise webinar, 2014

"RAND Royalties for Standard Essential Patents," presented to the Midwest patent practice at Perkins Coie LLP, 2014

"Intellectual Property Issues in Merger and Acquisition Transactions," addressing intellectual property valuation, joint webinar with Locke Lord LLP, 2014

"Role of the Damages Expert in IP Litigation," addressing early case assessments and RAND royalty rates for standard essential patents, a continuing legal education course presented to Greenberg Traurig LLP, 2014

"The Billion Dollar Whiteboard & Other Cautionary Tales Regarding IP Valuation," a continuing legal education course presented separately to BP International and Baxter Healthcare, 2014

"Determining RAND Royalty Rates for Standard Essential Patents," presented to the Intellectual Property Owners Association's (IPO) Damages and Injunctions Committee, 2013

"Emerging Intellectual Property Issues in Business Transactions: What You Need to Know," addressing intellectual property valuation, The Knowledge Congress Webcast Series, 2013

"Valuing Intellectual Property Inside and Outside of a Divorce Proceeding," *Stout* Webinar, 2013

"Effective Use of Experts in Patent Infringement Cases," addressing emerging issues related to the use of damages experts, The Knowledge Congress Webcast Series, 2013

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"Employing Federal Rules and Brandywine v. Cisco to Aggressively Reduce Cost of Using Damages Experts in Litigation and ADR," presented to the Intellectual Property Law Association of Chicago, 2013

"The Use of an Excess Earnings Approach for Trademark Valuation," guest lecturer at The John Marshall Law School "Intellectual Property Valuation" class, 2010, 2012, and 2013

"Practical Guidance and Illustrative Experiences Related to Current Patent Damages Issues," a continuing legal education course presented to Bartlit Beck Herman Palenchar & Scott LLP, 2012

"Recent Case Law Overview: A Look at Recent Opinions Affecting Damages in Patent Cases," a continuing legal education course presented to Dykema Gossett PLLC, 2012

"Recent Case Law Overview: A Look at Recent Opinions Affecting Damages Quantification in Patent Cases," a continuing legal education course presented to Leydig, Voit & Mayer, Ltd., 2012

"How much is your IP worth? Tools for properly assessing the value of IP," presented at a Intellectual Property Panel Discussion co-hosted by Stout Risius Ross and Venable LLP and titled "Intellectual Property: Increasing Your Return on Investment," 2012

"Patent Damages Overview," guest lecturer at the Chicago-Kent School of Law "Managing IP Portfolios" class, 2011

"Introduction to the Value and Importance of Intellectual Asset Management," presented as one class of the University of Illinois-Chicago's Engineering School's on-line Intellectual Property Management course, 2011

"License Agreement Comparability," presented to the China Appraisal Society, 2010

"Accounting for Risk in Intellectual Property Valuation," presented to the China Appraisal Society, 2010

"Monetization and Commercialization of IP," panelist and moderator at an FTI Consulting Insurance and Intellectual Property Conference, 2008

"Getting to the Deal (Part 2)," a discussion of intellectual property due diligence in mergers and acquisitions, panelist at a meeting of the New York Chapter of the Licensing Executives Society (LES), 2007

"Overview of Intellectual Asset Management," guest lecturer at the Chicago-Kent School of Law "Managing IP Portfolios" class, 2007

"Understanding the Role of University Technology Transfer," University of North Dakota's R&D Showcase IV conference, 2005

"The Question is Not: Who Moved the Cheese? But Rather: Can We Keep the Rest of the World from Eating Our Lunch?" a presentation regarding intellectual property and innovation in the U.S. and abroad, presented at the World Leadership in Innovation Conference at the FirstWave Annual Event, 2004

"The Emerging Role of Technology Transfer at U.S. Universities," presented at the Annual Meeting of the National Association of College and University Business Officers, 2004

"Technology Transfer in the University Environment," presented at the Annual Higher Education Forum, 2002

Appendix B

Declaration of Scott Weingust, Appendix B
Summary of Alleged Loss Realized by Investors
Exhibit 1

	[1] Fair Market Value of Equity	[2] Alleged Loss Realized by All Investors	[3] Alleged Loss Realized by the Investors Less Rupert Murdoch	[4] Alleged Loss Realized by the Investors Less RDV	[5] Alleged Loss Realized by the Investors Less Rupert Murdoch and RDV
1 Saba Income Approach, 44% Discount Rate	\$ 951,000,000	[6] \$ 121,093,891	\$ 80,660,954	\$ 88,558,017	\$ 49,072,723
2 Alternative Income Approach, 27% Discount Rate	1,478,000,000	59,901,246	40,085,084	44,048,319	24,232,156
3 Alternative Income Approach, 20.65% Discount Rate	1,815,000,000	30,712,617	20,408,837	22,469,594	12,165,815
4 Saba Asset Approach, No Opportunity Cost	\$ 827,000,000	--	--	--	--
5 Alternative Asset Approach, Opportunity Cost Added Using 44% Discount Rate	1,376,000,000	69,874,441	46,805,270	51,419,107	28,349,936
6 Alternative Asset Approach, Opportunity Cost Added Using 27% Discount Rate	1,164,000,000	92,913,676	62,324,630	68,442,442	37,853,397

[1] See Exhibit 4, Exhibit 13, and Exhibit 17. Also see Expert Report of Carl S. Saba, dated September 8, 2022.

[2] See Exhibit 2, Exhibit 6, Exhibit 10, and Exhibit 15.

[3] See Exhibits 20.1 - 20.6.

[4] See Exhibits 21.1 - 21.6.

[5] See Exhibits 22.1 - 22.6.

[6] United States District Court, Northern District of California, San Jose Division, Transcript of Sentencing Proceedings Before the Honorable Edward J. Davila, United States District Court Judge, November 18, 2022.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (27% Discount Rate)****Exhibit 2**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	20,022,939	\$ 17.00	\$ 340,389,963	\$ 14.31	\$ 286,428,179	\$ 53,961,784
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.82	\$ 34,867,857	\$ 5,939,463
3					Total Loss	\$ 59,901,246

[1] See Exhibit 19.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 3.2. Reflects the adjusted Series C-1 and C-2 price per share based on the NAV method as of 12/31/2014.

[1] See Exhibit 4.

Declaration of Scott Weingust, Appendix B

Income Approach

DCF Equity Allocation - Alternative Income Approach (27% Discount Rate)

Exhibit 3.2

		\$0.072 Warrants /										
Share Class		Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate	
1	High call option	[1]	\$ 1,478,000,000	\$ 898,344,842	\$ 889,587,491	\$ 885,539,318	\$ 879,811,789	\$ 866,935,650	\$ 858,110,824	\$ 844,702,036	\$ 816,173,605	\$ 790,835,052
2	Less low call option	[1]	898,344,842	889,587,491	885,539,318	879,811,789	866,935,650	858,110,824	844,702,036	816,173,605	790,835,052	-
3	Total Value to Allocate		\$ 579,655,158	\$ 8,757,351	\$ 4,048,173	\$ 5,727,529	\$ 12,876,139	\$ 8,824,827	\$ 13,408,788	\$ 28,528,431	\$ 25,338,553	\$ 790,835,052
<u>Preferred Share Classes</u>												
4	Series A @ \$0.150	[1]	-	6,948,007	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045
5	Series B @ \$0.1864	[1]	-	9,994,830	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965
6	Series C @ \$0.564	[1]	33,217,403	-	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105
7	Series C-1 @ \$3.00	[1]	75,525,003	-	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001
8	Series C-1 @ \$15.00	[1]	112,500,480	-	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032
9	Series C-2 @ \$17.00	[1]	557,739,859	-	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227
<u>Warrants on Common</u>												
10	Exercise Price @ 0.072		-	-	-	-	-	741,665	741,665	741,665	741,665	741,665
11	Common		-	-	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725
<u>Options on Common</u>												
12	Exercise Price @ 0.015		-	-	-	350,000	350,000	350,000	350,000	350,000	350,000	350,000
13	Exercise Price @ 0.030		-	-	-	-	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875
14	Exercise Price @ 0.066		-	-	-	-	-	547,500	547,500	547,500	547,500	547,500
15	Exercise Price @ 0.072		-	-	-	-	-	-	2,579,175	2,579,175	2,579,175	2,579,175
16	Exercise Price @ 0.094		-	-	-	-	-	-	-	312,500	312,500	312,500
17	Exercise Price @ 0.170		-	-	-	-	-	-	-	-	3,972,457	3,972,457
18	Exercise Price @ 0.206		-	-	-	-	-	-	-	-	-	606,365
			778,982,745	16,942,837	527,800,100	528,150,100	529,320,975	529,868,475	533,189,315	533,501,815	537,474,272	538,080,637
<u>Distribution Percentage</u>												
<u>Preferred Share Classes</u>												
19	Series A @ \$0.150		0.0%	41.0%	8.8%	8.8%	8.8%	8.7%	8.7%	8.7%	8.6%	8.6%
20	Series B @ \$0.1864		0.0%	59.0%	10.3%	10.2%	10.2%	10.2%	10.2%	10.1%	10.1%	10.1%
21	Series C @ \$0.564		4.3%	0.0%	11.2%	11.2%	11.1%	11.1%	11.0%	11.0%	11.0%	10.9%
22	Series C-1 @ \$3.00		9.7%	0.0%	4.8%	4.8%	4.8%	4.7%	4.7%	4.7%	4.7%	4.7%
23	Series C-1 @ \$15.00		14.4%	0.0%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%
24	Series C-2 @ \$17.00		71.6%	0.0%	6.2%	6.2%	6.2%	6.2%	6.1%	6.1%	6.1%	6.1%
<u>Warrants on Common</u>												
25	Exercise Price @ 0.072		0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%
26	Common		0.0%	0.0%	57.4%	57.4%	57.2%	57.2%	56.8%	56.8%	56.4%	56.3%
<u>Options on Common</u>												
27	Exercise Price @ 0.015		0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
28	Exercise Price @ 0.030		0.0%	0.0%	0.0%	0.0%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%
29	Exercise Price @ 0.066		0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%
30	Exercise Price @ 0.072		0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.5%	0.5%	0.5%	0.5%
31	Exercise Price @ 0.094		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%
32	Exercise Price @ 0.170		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	0.7%	0.7%
33	Exercise Price @ 0.206		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%
34			100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Allocation of Value</u>												
<u>Preferred Share Classes</u>												
35	Series A @ \$0.150	\$	-	\$ 3,591,260	\$ 355,270	\$ 502,318	\$ 1,126,771	\$ 771,449	\$ 1,164,869	\$ 2,476,914	\$ 2,183,701	\$ 68,078,114
36	Series B @ \$0.1864		-	5,166,091	415,210	587,067	1,316,875	901,604	1,361,401	2,894,809	2,552,125	79,563,963
37	Series C @ \$0.564		24,717,671	-	451,727	638,699	1,432,693	980,900	1,481,135	3,149,405	2,776,583	86,561,569

Declaration of Scott Weingust, Appendix B

Income Approach

DCF Equity Allocation - Alternative Income Approach (27% Discount Rate)

Exhibit 3.2

Share Class	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
38 Series C-1 @ \$3.00	56,199,522	-	193,090	273,011	612,401	419,283	633,108	1,346,206	1,186,844	37,000,538
39 Series C-1 @ \$15.00	83,713,643	-	57,524	81,334	182,444	124,911	188,613	401,056	353,580	11,023,047
40 Series C-2 @ \$17.00	415,024,322	-	251,636	355,789	798,085	546,413	825,070	1,754,384	1,546,703	48,219,345
<u>Warrants on Common</u>										
41 Exercise Price @ 0.072	-	-	-	-	-	-	18,652	39,660	34,965	1,090,050
42 Common	-	-	2,323,716	3,285,515	7,369,874	5,045,818	7,619,063	16,200,764	14,282,941	445,278,827
<u>Options on Common</u>										
43 Exercise Price @ 0.015	-	-	-	3,796	8,514	5,829	8,802	18,716	16,500	514,407
44 Exercise Price @ 0.030	-	-	-	-	28,482	19,501	29,445	62,611	55,199	1,720,874
45 Exercise Price @ 0.066	-	-	-	-	-	9,118	13,769	29,277	25,811	804,679
46 Exercise Price @ 0.072	-	-	-	-	-	-	64,862	137,919	121,592	3,790,699
47 Exercise Price @ 0.094	-	-	-	-	-	-	-	16,711	14,732	459,292
48 Exercise Price @ 0.170	-	-	-	-	-	-	-	-	187,277	5,838,452
49 Exercise Price @ 0.206	-	-	-	-	-	-	-	-	-	891,195
50	579,655,158	8,757,351	4,048,173	5,727,529	12,876,139	8,824,827	13,408,788	28,528,431	25,338,553	789,943,857

Preferred Share Classes	Total Value	Per Share Marketable
51 Series A	\$ 80,250,666	\$ 1.73
52 Series B	94,759,144	1.75
53 Series C	122,190,383	2.07
54 Series C-1	97,864,002	3.89
55 Series C-1	96,126,153	12.82
56 Series C-2	469,321,748	14.31

<u>Warrants on Common</u>		
57 Exercise Price @ 0.072	\$ 1,183,326	\$ 1.60
58 Common	\$ 501,406,517	\$ 1.65
<u>Options on Common</u>		
59 Exercise Price @ 0.015	\$ 576,564	\$ 1.65
60 Exercise Price @ 0.030	1,916,113	1.64
61 Exercise Price @ 0.066	882,654	1.61
62 Exercise Price @ 0.072	4,115,072	1.60
63 Exercise Price @ 0.094	490,735	1.57
64 Exercise Price @ 0.170	6,025,729	1.52
65 Exercise Price @ 0.206	891,195	1.47

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 3.1.

Declaration of Scott Weingust, Appendix B**Income Approach****Discounted Cash Flow Method Value Summary - Alternative Income Approach (27% Discount Rate)****Exhibit 4**

[1]							Discounted Cash
	Year	Base Cash Flow	Period	Discount Rate	PV Factor		Flow
1	2015	\$ 242,928	0.50	27.00%	0.8874	\$	215,564
2	2016	(12,914)	1.50	27.00%	0.6987		(9,023)
3	2017	21,118	2.50	27.00%	0.5502		11,618
4	2018	90,453	3.50	27.00%	0.4332		39,184
5	Terminal Value	3,282,000	4.00	27.00%	0.3844		1,261,606
6	Indicated Value						\$ 1,518,949
7	Add: C-2 Financing Proceeds						-
8	Deduct: Interest Bearing Debt						40,805
9	Add: Other non-operating assets						-
10	Total Equity Value - Controlling, Marketable Basis						<u>\$ 1,478,144</u>
11	Total Equity Value - Controlling, Marketable Basis, Rounded						<u><u>\$ 1,478,000</u></u>

See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit F.6.

[1] See Exhibit 5. Consistent with Mr. Saba, I have rounded this discount rate.

Declaration of Scott Weingust, Appendix B**Income Approach****Weighted Average Cost of Capital - Alternative Income Approach (27% Discount Rate)****Exhibit 5**

1	Selected Equity Rate	[1]	28.0%
2	Equity as a % of total capital		95.0%
3	Weighted Cost of Equity		26.6%
4	Debt as a % of total capital		5.0%
5	Cost of Debt		25.0%
6	After Tax Cost of Debt		15.0%
7	Weighted Cost of Debt		0.8%
8	WACC		27.4%

See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit F.4.

- [1] Source: Craig R. Everett, Pepperdine University, "2015 Private Capital Markets Report."
Represents the median required rate of return for venture capital investments in early stage companies.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (20% Discount Rate)****Exhibit 6**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	20,022,939	\$ 17.00	\$ 340,389,963	\$ 15.60	\$ 312,331,537	\$ 28,058,426
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 14.02	\$ 38,153,129	\$ 2,654,191
3					Total Loss	\$ 30,712,617

[1] See Exhibit 19.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 7.2. Reflects the adjusted Series C-1 and C-2 price per share based on the NAV method as of 12/31/2014.

[1] See Exhibit 8.

Declaration of Scott Weingust, Appendix B
Income Approach
DCF Equity Allocation - Alternative Income Approach (20% Discount Rate)
Exhibit 7.2

		\$0.072 Warrants /										
Share Class		Series C, C-1, C-2		Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
1	High call option	[1]	\$ 1,815,000,000	\$ 1,201,817,277	\$ 1,191,850,154	\$ 1,187,234,959	\$ 1,180,696,743	\$ 1,165,961,848	\$ 1,155,834,004	\$ 1,140,399,809	\$ 1,107,377,749	\$ 1,077,835,105
2	Less low call option	[1]	1,201,817,277	1,191,850,154	1,187,234,959	1,180,696,743	1,165,961,848	1,155,834,004	1,140,399,809	1,107,377,749	1,077,835,105	-
3	Total Value to Allocate		\$ 613,182,723	\$ 9,967,123	\$ 4,615,195	\$ 6,538,216	\$ 14,734,895	\$ 10,127,844	\$ 15,434,195	\$ 33,022,060	\$ 29,542,644	\$ 1,077,835,105
Preferred Share Classes												
4	Series A @ \$0.150	[1]	-	6,948,007	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045
5	Series B @ \$0.1864	[1]	-	9,994,830	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965
6	Series C @ \$0.564	[1]	33,217,403	-	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105
7	Series C-1 @ \$3.00	[1]	75,525,003	-	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001
8	Series C-1 @ \$15.00	[1]	112,500,480	-	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032
9	Series C-2 @ \$17.00	[1]	557,739,859	-	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227
Warrants on Common												
10	Exercise Price @ 0.072		-	-	-	-	-	-	741,665	741,665	741,665	741,665
11	Common		-	-	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725
Options on Common												
12	Exercise Price @ 0.015		-	-	-	350,000	350,000	350,000	350,000	350,000	350,000	350,000
13	Exercise Price @ 0.030		-	-	-	-	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875
14	Exercise Price @ 0.066		-	-	-	-	-	547,500	547,500	547,500	547,500	547,500
15	Exercise Price @ 0.072		-	-	-	-	-	-	2,579,175	2,579,175	2,579,175	2,579,175
16	Exercise Price @ 0.094		-	-	-	-	-	-	-	312,500	312,500	312,500
17	Exercise Price @ 0.170		-	-	-	-	-	-	-	-	3,972,457	3,972,457
18	Exercise Price @ 0.206		-	-	-	-	-	-	-	-	-	606,365
			778,982,745	16,942,837	527,800,100	528,150,100	529,320,975	529,868,475	533,189,315	533,501,815	537,474,272	538,080,637
Distribution Percentage												
Preferred Share Classes												
19	Series A @ \$0.150		0.0%	41.0%	8.8%	8.8%	8.8%	8.7%	8.7%	8.7%	8.6%	8.6%
20	Series B @ \$0.1864		0.0%	59.0%	10.3%	10.2%	10.2%	10.2%	10.2%	10.1%	10.1%	10.1%
21	Series C @ \$0.564		4.3%	0.0%	11.2%	11.2%	11.1%	11.1%	11.0%	11.0%	11.0%	10.9%
22	Series C-1 @ \$3.00		9.7%	0.0%	4.8%	4.8%	4.8%	4.8%	4.7%	4.7%	4.7%	4.7%
23	Series C-1 @ \$15.00		14.4%	0.0%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%
24	Series C-2 @ \$17.00		71.6%	0.0%	6.2%	6.2%	6.2%	6.2%	6.2%	6.1%	6.1%	6.1%
Warrants on Common												
25	Exercise Price @ 0.072		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%
26	Common		0.0%	0.0%	57.4%	57.4%	57.2%	57.2%	56.8%	56.8%	56.4%	56.3%
Options on Common												
27	Exercise Price @ 0.015		0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
28	Exercise Price @ 0.030		0.0%	0.0%	0.0%	0.0%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%
29	Exercise Price @ 0.066		0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%
30	Exercise Price @ 0.072		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.5%	0.5%	0.5%
31	Exercise Price @ 0.094		0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%

Declaration of Scott Weingust, Appendix B
Income Approach
DCF Equity Allocation - Alternative Income Approach (20% Discount Rate)
Exhibit 7.2

Share Class	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
32 Exercise Price @ 0.170	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	0.7%
33 Exercise Price @ 0.206	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%
34	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
Allocation of Value										
<u>Preferred Share Classes</u>										
35 Series A @ \$0.150	\$ -	\$ 4,087,370	\$ 405,032	\$ 573,417	\$ 1,289,427	\$ 885,356	\$ 1,340,823	\$ 2,867,063	\$ 2,546,013	\$ 92,784,180
36 Series B @ \$0.1864	-	5,879,753	473,368	670,162	1,506,974	1,034,729	1,567,041	3,350,782	2,975,566	108,438,330
37 Series C @ \$0.564	26,147,354	-	515,000	729,102	1,639,512	1,125,733	1,704,862	3,645,481	3,237,265	117,975,421
38 Series C-1 @ \$3.00	59,450,132	-	220,136	311,653	700,805	481,192	728,739	1,558,252	1,383,761	50,428,315
39 Series C-1 @ \$15.00	88,555,685	-	65,582	92,846	208,781	143,355	217,103	464,228	412,244	15,023,395
40 Series C-2 @ \$17.00	439,029,552	-	286,882	406,148	913,294	627,093	949,698	2,030,725	1,803,327	65,718,512
<u>Warrants on Common</u>										
41 Exercise Price @ 0.072	-	-	-	-	-	-	21,469	45,907	40,766	1,485,637
42 Common	-	-	2,649,196	3,750,554	8,433,764	5,790,851	8,769,929	18,752,612	16,652,720	606,873,899
<u>Options on Common</u>										
43 Exercise Price @ 0.015	-	-	-	4,333	9,743	6,690	10,131	21,664	19,238	701,089
44 Exercise Price @ 0.030	-	-	-	-	32,594	22,380	33,893	72,473	64,358	2,345,392
45 Exercise Price @ 0.066	-	-	-	-	-	10,465	15,848	33,889	30,094	1,096,703
46 Exercise Price @ 0.072	-	-	-	-	-	-	74,659	159,643	141,766	5,166,373
47 Exercise Price @ 0.094	-	-	-	-	-	-	-	19,343	17,177	625,972
48 Exercise Price @ 0.170	-	-	-	-	-	-	-	-	218,349	7,957,271
49 Exercise Price @ 0.206	-	-	-	-	-	-	-	-	-	1,214,616
50	613,182,723	9,967,123	4,615,195	6,538,216	14,734,895	10,127,844	15,434,195	33,022,060	29,542,644	1,076,620,488

Preferred Share Classes	Total Value	Per Share Marketable
51 Series A	\$ 106,778,682	\$ 2.31
52 Series B	125,896,705	2.33
53 Series C	156,719,730	2.66
54 Series C-1	115,262,985	4.58
55 Series C-1	105,183,219	14.02
56 Series C-2	511,765,230	15.60
<u>Warrants on Common</u>		
57 Exercise Price @ 0.072	\$ 1,593,779	\$ 2.15
58 Common	\$ 671,673,524	\$ 2.22
<u>Options on Common</u>		
59 Exercise Price @ 0.015	\$ 772,888	\$ 2.21
60 Exercise Price @ 0.030	2,571,091	2.20

Declaration of Scott Weingust, Appendix B

Income Approach

DCF Equity Allocation - Alternative Income Approach (20% Discount Rate)

Exhibit 7.2

	Share Class	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
61	Exercise Price @ 0.066	1,186,999	2.17								
62	Exercise Price @ 0.072	5,542,441	2.15								
63	Exercise Price @ 0.094	662,492	2.12								
64	Exercise Price @ 0.170	8,175,620	2.06								
65	Exercise Price @ 0.206	1,214,616	2.00								

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 7.1.

Declaration of Scott Weingust, Appendix B**Income Approach****Discounted Cash Flow Method Value Summary - Alternative Income Approach (20% Discount Rate)****Exhibit 8**

[1]							Discounted Cash
	Year	Base Cash Flow	Period	Discount Rate	PV Factor		Flow
1	2015	\$ 242,928	0.50	20.00%	0.9129	\$	221,762
2	2016	(12,914)	1.50	20.00%	0.7607		(9,824)
3	2017	21,118	2.50	20.00%	0.6339		13,388
4	2018	90,453	3.50	20.00%	0.5283		47,785
5	Terminal Value	3,282,000	4.00	20.00%	0.4823		1,582,755
6	Indicated Value						\$ 1,855,865
7	Add: C-2 Financing Proceeds						-
8	Deduct: Interest Bearing Debt						40,805
9	Add: Other non-operating assets						-
10	Total Equity Value - Controlling, Marketable Basis						<u>\$ 1,815,060</u>
11	Total Equity Value - Controlling, Marketable Basis, Rounded						<u><u>\$ 1,815,000</u></u>

See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit F.6.

[1] See Exhibit 9. Consistent with Mr. Saba, I have rounded this discount rate.

Declaration of Scott Weingust, Appendix B**Income Approach****Weighted Average Cost of Capital - Alternative Income Approach (20% Discount Rate)****Exhibit 9**

1	Selected Equity Rate	[1]	20.7%
2	Equity as a % of total capital		95.0%
3	Weighted Cost of Equity		19.6%
4	Debt as a % of total capital		5.0%
5	Cost of Debt		25.0%
6	After Tax Cost of Debt		15.0%
7	Weighted Cost of Debt		0.8%
8	WACC		20.4%

See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit F.4.

[1] Source: Craig R. Everett, Pepperdine University, "2015 Private Capital Markets Report."
Represents the median required rate of return for venture capital investments in early stage companies.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)
Exhibit 10**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	20,022,939	\$ 17.00	\$ 340,389,963	\$ 13.86	\$ 277,569,848	\$ 62,820,115
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.41	\$ 33,752,995	\$ 7,054,325
3					Total Loss	\$ 69,874,441

[1] See Exhibit 19.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 11.2. Reflects the adjusted Series C-1 and C-2 price per share based on the NAV method as of 12/31/2014.

Declaration of Scott Weingust, Appendix B

Asset Approach

NAV Equity Allocation - Step 1 - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)

Exhibit 11.1

				\$0.015	\$0.030	\$0.066	\$0.072	\$0.094	\$0.170	\$0.206
Share Class	Number of Shares	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise
<u>Preferred Share Classes</u>										
1 Series A @ \$0.150	\$ 46,320,045	\$ -	\$ 6,948,007	\$ 7,642,807	\$ 9,032,409	\$ 12,089,532	\$ 15,424,575	\$ 19,778,659	\$ 27,653,067	\$ 37,194,996
2 Series B @ \$0.1864	54,134,965	-	9,994,830	10,806,855	12,430,904	16,003,811	19,901,529	24,990,216	34,193,160	45,344,962
3 Series C @ \$0.564	58,896,105	33,217,403	33,217,403	34,100,845	35,867,728	39,754,871	43,995,390	49,531,624	59,543,962	71,676,560
4 Series C-1 @ \$3.00	25,175,001	75,525,003	75,525,003	75,902,628	76,657,878	78,319,428	80,132,028	82,498,478	86,778,228	91,964,279
5 Series C-1 @ \$15.00	7,500,032	112,500,480	112,500,480	112,612,980	112,837,981	113,332,984	113,872,986	114,577,989	115,852,994	117,398,001
6 Series C-2 @ \$17.00	32,808,227	557,739,859	557,739,859	558,231,982	559,216,229	561,381,572	563,743,765	566,827,738	572,405,136	579,163,631
<u>Warrants on Common</u>										
7 Exercise Price @ 0.072	741,665	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,317	\$ 72,683	\$ 99,383
8 Common	302,965,725	\$ -	\$ -	\$ 4,544,486	\$ 9,088,972	\$ 19,995,738	\$ 21,813,532	\$ 28,478,778	\$ 51,504,173	\$ 62,410,939
<u>Options on Common</u>										
9 Exercise Price @ 0.015	350,000	\$ -	\$ -	\$ -	\$ 5,250	\$ 17,850	\$ 19,950	\$ 27,650	\$ 54,250	\$ 66,850
10 Exercise Price @ 0.030	1,170,875	-	-	-	-	42,152	49,177	74,936	163,923	206,074
11 Exercise Price @ 0.066	547,500	-	-	-	-	-	3,285	15,330	56,940	76,650
12 Exercise Price @ 0.072	2,579,175	-	-	-	-	-	-	56,742	252,759	345,609
13 Exercise Price @ 0.094	312,500	-	-	-	-	-	-	-	23,750	35,000
14 Exercise Price @ 0.170	3,972,457	-	-	-	-	-	-	-	-	143,008
15 Exercise Price @ 0.206	606,365	-	-	-	-	-	-	-	-	-
	538,080,637	\$ 778,982,745	\$ 795,925,582	\$ 803,842,584	\$ 815,137,351	\$ 840,937,937	\$ 858,956,217	\$ 886,874,457	\$ 948,555,026	\$ 1,006,125,944
<u>Inputs</u>										
		Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise
16 Stock Price Now	[1] \$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000	\$ 1,376,000,000
17 Volatility	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%
18 Riskfree Rate - Annual	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%
19 Exercise Price	\$ -	\$ 778,982,745	\$ 795,925,582	\$ 803,842,584	\$ 815,137,351	\$ 840,937,937	\$ 858,956,217	\$ 886,874,457	\$ 948,555,026	\$ 1,006,125,944
20 Time to Maturity - Years	4	4	4	4	4	4	4	4	4	4
<u>Outputs</u>										
21 d1	20.43	1.12	1.10	1.09	1.08	1.05	1.03	1.00	0.93	0.88
22 d2	19.37	0.06	0.04	0.03	0.02	(0.01)	(0.03)	(0.06)	(0.13)	(0.18)
23 N(d1)	1.000	0.868	0.864	0.862	0.859	0.852	0.848	0.840	0.825	0.810
24 N(d2)	1.000	0.523	0.515	0.512	0.506	0.495	0.487	0.475	0.449	0.428
25 Call Price (Vc)	\$ 1,376,000,000	\$ 809,044,879	\$ 800,717,476	\$ 796,870,434	\$ 791,430,046	\$ 779,210,443	\$ 770,844,384	\$ 758,146,375	\$ 731,185,252	\$ 707,301,699
26 Fair Market Value	\$ 1,376,000,000	\$ 809,044,879	\$ 800,717,476	\$ 796,870,434	\$ 791,430,046	\$ 779,210,443	\$ 770,844,384	\$ 758,146,375	\$ 731,185,252	\$ 707,301,699

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 13.

Declaration of Scott Weingust, Appendix B

Asset Approach

NAV Equity Allocation - Step 2 - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)

Exhibit 11.2

Share Class		Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
1	High call option	[1] \$ 1,376,000,000	\$ 809,044,879	\$ 800,717,476	\$ 796,870,434	\$ 791,430,046	\$ 779,210,443	\$ 770,844,384	\$ 758,146,375	\$ 731,185,252	\$ 707,301,699
2	Less low call option	[1] 809,044,879	800,717,476	796,870,434	791,430,046	779,210,443	770,844,384	758,146,375	731,185,252	707,301,699	-
3	Total Value to Allocate	\$ 566,955,121	\$ 8,327,403	\$ 3,847,043	\$ 5,440,387	\$ 12,219,603	\$ 8,366,059	\$ 12,698,010	\$ 26,961,123	\$ 23,883,553	\$ 707,301,699
<u>Preferred Share Classes</u>											
4	Series A @ \$0.150	[1] -	6,948,007	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045
5	Series B @ \$0.1864	[1] -	9,994,830	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965
6	Series C @ \$0.564	[1] 33,217,403	-	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105
7	Series C-1 @ \$3.00	[1] 75,525,003	-	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001
8	Series C-1 @ \$15.00	[1] 112,500,480	-	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032
9	Series C-2 @ \$17.00	[1] 557,739,859	-	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227
<u>Warrants on Common</u>											
10	Exercise Price @ 0.072	-	-	-	-	-	-	741,665	741,665	741,665	741,665
11	Common	-	-	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725
<u>Options on Common</u>											
12	Exercise Price @ 0.015	-	-	-	350,000	350,000	350,000	350,000	350,000	350,000	350,000
13	Exercise Price @ 0.030	-	-	-	-	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875
14	Exercise Price @ 0.066	-	-	-	-	-	547,500	547,500	547,500	547,500	547,500
15	Exercise Price @ 0.072	-	-	-	-	-	-	2,579,175	2,579,175	2,579,175	2,579,175
16	Exercise Price @ 0.094	-	-	-	-	-	-	-	312,500	312,500	312,500
17	Exercise Price @ 0.170	-	-	-	-	-	-	-	-	3,972,457	3,972,457
18	Exercise Price @ 0.206	-	-	-	-	-	-	-	-	-	606,365
		778,982,745	16,942,837	527,800,100	528,150,100	529,320,975	529,868,475	533,189,315	533,501,815	537,474,272	538,080,637
<u>Distribution Percentage</u>											
<u>Preferred Share Classes</u>											
19	Series A @ \$0.150	0.0%	41.0%	8.8%	8.8%	8.8%	8.7%	8.7%	8.7%	8.6%	8.6%
20	Series B @ \$0.1864	0.0%	59.0%	10.3%	10.2%	10.2%	10.2%	10.2%	10.1%	10.1%	10.1%
21	Series C @ \$0.564	4.3%	0.0%	11.2%	11.2%	11.1%	11.1%	11.0%	11.0%	11.0%	10.9%
22	Series C-1 @ \$3.00	9.7%	0.0%	4.8%	4.8%	4.8%	4.8%	4.7%	4.7%	4.7%	4.7%
23	Series C-1 @ \$15.00	14.4%	0.0%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%
24	Series C-2 @ \$17.00	71.6%	0.0%	6.2%	6.2%	6.2%	6.2%	6.2%	6.1%	6.1%	6.1%
<u>Warrants on Common</u>											
25	Exercise Price @ 0.072	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%
26	Common	0.0%	0.0%	57.4%	57.4%	57.2%	57.2%	56.8%	56.8%	56.4%	56.3%
<u>Options on Common</u>											
27	Exercise Price @ 0.015	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
28	Exercise Price @ 0.030	0.0%	0.0%	0.0%	0.0%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%
29	Exercise Price @ 0.066	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%
30	Exercise Price @ 0.072	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.5%	0.5%	0.5%
31	Exercise Price @ 0.094	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%
32	Exercise Price @ 0.170	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	0.7%
33	Exercise Price @ 0.206	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%
34		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Allocation of Value</u>											
<u>Preferred Share Classes</u>											
35	Series A @ \$0.150	\$ -	\$ 3,414,945	\$ 337,619	\$ 477,135	\$ 1,069,318	\$ 731,344	\$ 1,103,121	\$ 2,340,836	\$ 2,058,307	\$ 60,887,243
36	Series B @ \$0.1864	-	4,912,458	394,580	557,635	1,249,729	854,733	1,289,235	2,735,772	2,405,576	71,159,878
37	Series C @ \$0.564	24,176,116	-	429,283	606,679	1,359,642	929,907	1,402,622	2,976,382	2,617,145	77,418,350

Declaration of Scott Weingust, Appendix B

Asset Approach

NAV Equity Allocation - Step 2 - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)

Exhibit 11.2

Share Class	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
38 Series C-1 @ \$3.00	54,968,210	-	183,496	259,324	581,176	397,486	599,548	1,272,247	1,118,693	33,092,291
39 Series C-1 @ \$15.00	81,879,507	-	54,666	77,257	173,141	118,418	178,615	379,023	333,276	9,858,718
40 Series C-2 @ \$17.00	405,931,288	-	239,133	337,952	757,392	518,007	781,334	1,658,001	1,457,887	43,126,091
<u>Warrants on Common</u>										
41 Exercise Price @ 0.072	-	-	-	-	-	-	17,663	37,481	32,957	974,911
42 Common	-	-	2,208,264	3,120,800	6,994,095	4,783,506	7,215,189	15,310,719	13,462,780	398,245,462
<u>Options on Common</u>										
43 Exercise Price @ 0.015	-	-	-	3,605	8,080	5,526	8,335	17,688	15,553	460,072
44 Exercise Price @ 0.030	-	-	-	-	27,030	18,487	27,885	59,172	52,030	1,539,104
45 Exercise Price @ 0.066	-	-	-	-	-	8,644	13,039	27,669	24,329	719,683
46 Exercise Price @ 0.072	-	-	-	-	-	-	61,424	130,342	114,610	3,390,300
47 Exercise Price @ 0.094	-	-	-	-	-	-	-	15,793	13,886	410,778
48 Exercise Price @ 0.170	-	-	-	-	-	-	-	-	176,523	5,221,756
49 Exercise Price @ 0.206	-	-	-	-	-	-	-	-	-	797,061
50	566,955,121	8,327,403	3,847,043	5,440,387	12,219,603	8,366,059	12,698,010	26,961,123	23,883,553	706,504,638

Preferred Share Classes	Total Value	Per Share Marketable
51 Series A	\$ 72,419,869	\$ 1.56
52 Series B	85,559,598	1.58
53 Series C	111,916,126	1.90
54 Series C-1	92,472,471	3.67
55 Series C-1	93,052,621	12.41
56 Series C-2	454,807,087	13.86

<u>Warrants on Common</u>		
57 Exercise Price @ 0.072	\$ 1,063,012	\$ 1.43
58 Common	\$ 451,340,815	\$ 1.49
<u>Options on Common</u>		
59 Exercise Price @ 0.015	\$ 518,859	\$ 1.48
60 Exercise Price @ 0.030	1,723,707	1.47
61 Exercise Price @ 0.066	793,364	1.45
62 Exercise Price @ 0.072	3,696,675	1.43
63 Exercise Price @ 0.094	440,457	1.41
64 Exercise Price @ 0.170	5,398,278	1.36
65 Exercise Price @ 0.206	797,061	1.31

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 11.1.

Declaration of Scott Weingust, Appendix B

Asset Approach

Theranos Adjusted Net Asset Value - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)

Exhibit 13

Thousands USD		12/31/14 Unadjusted	Adjustments	Adjusted
Assets:				
1	Current Assets			
2	Current Operating Assets			
3	Cash & Equivalents	\$ 465,933	\$ -	\$ 465,933
4	Accounts Receivable	-	-	-
5	Inventory	2,383	-	2,383
6	Other Current Assets	12,788	-	12,788
7	Total Current operating Assets	481,104	-	481,104
8	Total Current Non-Operating Assets	-	-	-
9	Total Current Assets	481,104	-	481,104
10	Total Fixed Assets - Net	53,366	-	53,366
11	Other Assets			
	Intangible Assets			
12	Goodwill	-	-	-
13	Other Intangible Assets	[1] -	1,059,910	1,059,910
14	Total Intangible Assets - Net	-	1,059,910	1,059,910
15	Total Long Term Receivables	27,045	-	27,045
16	Total Other Non-Current Assets	-	-	-
17	Total Non Current Assets	27,045	1,059,910	1,086,955
18	Total Assets	\$ 561,515	\$ 1,059,910	\$ 1,621,425
19 Liabilities and Equity:				
Liabilities				
20	Current Liabilities			
21	Current Operating Liabilities			
22	Accounts Payable	\$ 16,633	\$	16,633
23	Deferred Revenue	-		
24	Other Current Liabilities	400,359	(390,375)	9,984
25	Total Current Operating Liabilities	416,992	(390,375)	26,617

Declaration of Scott Weingust, Appendix B**Asset Approach****Theranos Adjusted Net Asset Value - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)****Exhibit 13**

<i>Thousands USD</i>		12/31/14 Unadjusted	Adjustments	Adjusted
26	Total Current Debt Obligations	-	-	-
27	Total Current Liabilities	416,992	(390,375)	26,617
28	Non Current Liabilities			
29	Total Long Term Debt	40,805	-	40,805
30	Other Non Current Liabilities			
31	Deferred Rent	-		-
32	Deferred Revenue, LT	-		-
33	Customer Deposits	143,846		143,846
34	Other Non-current liabilities	33,750		33,750
35	Total Other Non Current Liabilities	177,596	-	177,596
36	Total Non Current Liabilities	218,401	-	218,401
37	Total Liabilities	\$ 635,393	\$ (390,375)	\$ 245,018
38	Total Equity Value - Controlling, Marketable Basis			\$ 1,376,407
39	Total Equity Value - Controlling, Marketable Basis (rounded)			\$ 1,376,000

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 14.

Declaration of Scott Weingust, Appendix B

Asset Approach

Cost Method - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return)

Exhibit 14

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
1 Inflation Adjusted Annual Cost	[1]	\$ 8,078,534	\$ 8,078,534	\$ 8,078,534	\$ 20,667,544	\$ 15,502,206	\$ 15,294,493	\$ 21,051,759	\$ 31,794,773	\$ 85,119,867	\$ 90,613,216	\$ 151,813,833
2 Obsolescence Adjustment	[2]	4,039,267	4,039,267	4,039,267								
3 Annual Cost after Obsolescence Adjustment		\$ 4,039,267	\$ 4,039,267	\$ 4,039,267	\$ 20,667,544	\$ 15,502,206	\$ 15,294,493	\$ 21,051,759	\$ 31,794,773	\$ 85,119,867	\$ 90,613,216	\$ 151,813,833
4 Developer's Profit %	[1]	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%
5 Developer's Profit		\$ 605,890	\$ 605,890	\$ 605,890	\$ 3,100,132	\$ 2,325,331	\$ 2,294,174	\$ 3,157,764	\$ 4,769,216	\$ 12,767,980	\$ 13,591,982	\$ 22,772,075
6 Inflation Adjusted Annual Costs with Obsolescence Factor and Developer's Profit		\$ 4,645,157	\$ 4,645,157	\$ 4,645,157	\$ 23,767,676	\$ 17,827,537	\$ 17,588,667	\$ 24,209,523	\$ 36,563,989	\$ 97,887,847	\$ 104,205,198	\$ 174,585,908
7 Expected Annual Return	[3]	44.0%	44.0%	44.0%	44.0%	44.0%	44.0%	44.0%	44.0%	44.0%	44.0%	44.0%
8 Cumulative Periods	[4]	10.50	9.50	8.50	7.50	6.50	5.50	4.50	3.50	2.50	1.50	0.50
9 Expected Cumulative Return		462.0%	418.0%	374.0%	330.0%	286.0%	242.0%	198.0%	154.0%	110.0%	66.0%	22.0%
10 Total Opportunity Cost		\$ 21,460,625	\$ 19,416,756	\$ 17,372,887	\$ 78,433,329	\$ 50,986,756	\$ 42,564,574	\$ 47,934,855	\$ 56,308,543	\$ 107,676,632	\$ 68,775,431	\$ 38,408,900
11 Inflation Adjusted Annual Costs with Obsolescence Factor, Developer's Profit, and Opportunity Cost Adjustment		\$ 26,105,782	\$ 24,061,913	\$ 22,018,044	\$ 102,201,005	\$ 68,814,292	\$ 60,153,241	\$ 72,144,378	\$ 92,872,532	\$ 205,564,479	\$ 172,980,629	\$ 212,994,808
12 Total Inflation Adjusted Annual Costs with Obsolescence Factor, Developer's Profit, and Opportunity Cost Adjustment		<u>\$ 1,059,911,102</u>										
13 Total Inflation Adjusted Annual Costs with Obsolescence Factor, Developer's Profit, and Opportunity Cost Adjustment , Rounded		<u><u>\$ 1,059,910,000</u></u>										

[1] See Exhibit 4.1.2 Saba and Saba Report Exhibit H.2. Represents annual expenses from 2004 - 2014. Mr. Saba's expense line item that covers 2004-2006 has been distributed evenly across the first 3 years.

[2] See Exhibit 4.1.2 Saba and Saba Report Exhibit H.2. Assumes equal distribution of the \$12.1 million obsolescence adjustment.

[3] See Saba Report Exhibit I.4.

[4] Adjustment for Opportunity Cost assumes midpoint convention.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)****Exhibit 15**

	[1]		[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss	
1	20,022,939	\$ 17.00	\$ 340,389,963	\$ 12.84	\$ 257,092,328	\$ 83,297,635	
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss	
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 11.47	\$ 31,191,279	\$ 9,616,041	
3					Total Loss	\$ 92,913,676	

[1] See Exhibit 19.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 16.2. Reflects the adjusted Series C-1 and C-2 price per share based on the NAV method as of 12/31/2014.

Declaration of Scott Weingust, Appendix B

Asset Approach

NAV Equity Allocation - Step 1 - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)

Exhibit 16.1

				\$0.015	\$0.030	\$0.066	\$0.072	\$0.094	\$0.170	\$0.206
Share Class	Number of Shares	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise
<u>Preferred Share Classes</u>										
Series A @ \$0.150	\$ 46,320,045	\$ -	\$ 6,948,007	\$ 7,642,807	\$ 9,032,409	\$ 12,089,532	\$ 15,424,575	\$ 19,778,659	\$ 27,653,067	\$ 37,194,996
Series B @ \$0.1864	54,134,965	-	9,994,830	10,806,855	12,430,904	16,003,811	19,901,529	24,990,216	34,193,160	45,344,962
Series C @ \$0.564	58,896,105	33,217,403	33,217,403	34,100,845	35,867,728	39,754,871	43,995,390	49,531,624	59,543,962	71,676,560
Series C-1 @ \$3.00	25,175,001	75,525,003	75,525,003	75,902,628	76,657,878	78,319,428	80,132,028	82,498,478	86,778,228	91,964,279
Series C-1 @ \$15.00	7,500,032	112,500,480	112,500,480	112,612,980	112,837,981	113,332,984	113,872,986	114,577,989	115,852,994	117,398,001
Series C-2 @ \$17.00	32,808,227	557,739,859	557,739,859	558,231,982	559,216,229	561,381,572	563,743,765	566,827,738	572,405,136	579,163,631
<u>Warrants on Common</u>										
Exercise Price @ 0.072	741,665	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	16,317	72,683	99,383
Common	302,965,725	\$ -	\$ -	\$ 4,544,486	\$ 9,088,972	\$ 19,995,738	\$ 21,813,532	\$ 28,478,778	\$ 51,504,173	\$ 62,410,939
<u>Options on Common</u>										
Exercise Price @ 0.015	350,000	\$ -	\$ -	\$ -	\$ 5,250	\$ 17,850	\$ 19,950	\$ 27,650	\$ 54,250	\$ 66,850
Exercise Price @ 0.030	1,170,875	-	-	-	-	42,152	49,177	74,936	163,923	206,074
Exercise Price @ 0.066	547,500	-	-	-	-	-	3,285	15,330	56,940	76,650
Exercise Price @ 0.072	2,579,175	-	-	-	-	-	-	56,742	252,759	345,609
Exercise Price @ 0.094	312,500	-	-	-	-	-	-	-	23,750	35,000
Exercise Price @ 0.170	3,972,457	-	-	-	-	-	-	-	-	143,008
Exercise Price @ 0.206	606,365	-	-	-	-	-	-	-	-	-
	538,080,637	\$ 778,982,745	\$ 795,925,582	\$ 803,842,584	\$ 815,137,351	\$ 840,937,937	\$ 858,956,217	\$ 886,874,457	\$ 948,555,026	\$ 1,006,125,944

			Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise
<u>Inputs</u>											
16 Stock Price Now	[1]	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000	\$ 1,164,000,000
17 Volatility		53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%	53.0%
18 Riskfree Rate - Annual		1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%	1.38%
19 Exercise Price		\$ -	\$ 778,982,745	\$ 795,925,582	\$ 803,842,584	\$ 815,137,351	\$ 840,937,937	\$ 858,956,217	\$ 886,874,457	\$ 948,555,026	\$ 1,006,125,944
20 Time to Maturity - Years		4	4	4	4	4	4	4	4	4	4
<u>Outputs</u>											
21 d1		20.28	0.96	0.94	0.93	0.92	0.89	0.87	0.84	0.78	0.72
22 d2		19.22	(0.10)	(0.12)	(0.13)	(0.14)	(0.17)	(0.19)	(0.22)	(0.28)	(0.34)
23 N(d1)		1.000	0.832	0.827	0.824	0.821	0.813	0.808	0.799	0.781	0.764
24 N(d2)		1.000	0.461	0.453	0.449	0.444	0.432	0.424	0.412	0.388	0.367
25 Call Price (Vc)		\$ 1,164,000,000	\$ 628,618,951	\$ 621,299,649	\$ 617,923,413	\$ 613,154,317	\$ 602,465,909	\$ 595,166,841	\$ 584,117,278	\$ 560,771,918	\$ 540,222,719
26 Fair Market Value		\$ 1,164,000,000	\$ 628,618,951	\$ 621,299,649	\$ 617,923,413	\$ 613,154,317	\$ 602,465,909	\$ 595,166,841	\$ 584,117,278	\$ 560,771,918	\$ 540,222,719

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 17.

Declaration of Scott Weingust, Appendix B

Asset Approach

NAV Equity Allocation - Step 2 - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)

Exhibit 16.2

Share Class		Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
1	High call option	[1] \$ 1,164,000,000	\$ 628,618,951	\$ 621,299,649	\$ 617,923,413	\$ 613,154,317	\$ 602,465,909	\$ 595,166,841	\$ 584,117,278	\$ 560,771,918	\$ 540,222,719
2	Less low call option	[1] 628,618,951	621,299,649	617,923,413	613,154,317	602,465,909	595,166,841	584,117,278	560,771,918	540,222,719	-
3	Total Value to Allocate	\$ 535,381,049	\$ 7,319,302	\$ 3,376,236	\$ 4,769,097	\$ 10,688,408	\$ 7,299,068	\$ 11,049,563	\$ 23,345,360	\$ 20,549,199	\$ 540,222,719
<u>Preferred Share Classes</u>											
4	Series A @ \$0.150	[1] -	6,948,007	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045	46,320,045
5	Series B @ \$0.1864	[1] -	9,994,830	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965	54,134,965
6	Series C @ \$0.564	[1] 33,217,403	-	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105	58,896,105
7	Series C-1 @ \$3.00	[1] 75,525,003	-	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001	25,175,001
8	Series C-1 @ \$15.00	[1] 112,500,480	-	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032	7,500,032
9	Series C-2 @ \$17.00	[1] 557,739,859	-	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227	32,808,227
<u>Warrants on Common</u>											
10	Exercise Price @ 0.072	-	-	-	-	-	-	741,665	741,665	741,665	741,665
11	Common	-	-	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725	302,965,725
<u>Options on Common</u>											
12	Exercise Price @ 0.015	-	-	-	350,000	350,000	350,000	350,000	350,000	350,000	350,000
13	Exercise Price @ 0.030	-	-	-	-	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875	1,170,875
14	Exercise Price @ 0.066	-	-	-	-	-	547,500	547,500	547,500	547,500	547,500
15	Exercise Price @ 0.072	-	-	-	-	-	-	2,579,175	2,579,175	2,579,175	2,579,175
16	Exercise Price @ 0.094	-	-	-	-	-	-	-	312,500	312,500	312,500
17	Exercise Price @ 0.170	-	-	-	-	-	-	-	-	3,972,457	3,972,457
18	Exercise Price @ 0.206	-	-	-	-	-	-	-	-	-	606,365
		778,982,745	16,942,837	527,800,100	528,150,100	529,320,975	529,868,475	533,189,315	533,501,815	537,474,272	538,080,637
<u>Distribution Percentage</u>											
<u>Preferred Share Classes</u>											
19	Series A @ \$0.150	0.0%	41.0%	8.8%	8.8%	8.8%	8.7%	8.7%	8.7%	8.6%	8.6%
20	Series B @ \$0.1864	0.0%	59.0%	10.3%	10.2%	10.2%	10.2%	10.2%	10.1%	10.1%	10.1%
21	Series C @ \$0.564	4.3%	0.0%	11.2%	11.2%	11.1%	11.1%	11.0%	11.0%	11.0%	10.9%
22	Series C-1 @ \$3.00	9.7%	0.0%	4.8%	4.8%	4.8%	4.8%	4.7%	4.7%	4.7%	4.7%
23	Series C-1 @ \$15.00	14.4%	0.0%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%	1.4%
24	Series C-2 @ \$17.00	71.6%	0.0%	6.2%	6.2%	6.2%	6.2%	6.2%	6.1%	6.1%	6.1%
<u>Warrants on Common</u>											
25	Exercise Price @ 0.072	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%
26	Common	0.0%	0.0%	57.4%	57.4%	57.2%	57.2%	56.8%	56.8%	56.4%	56.3%
<u>Options on Common</u>											
27	Exercise Price @ 0.015	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%	0.1%
28	Exercise Price @ 0.030	0.0%	0.0%	0.0%	0.0%	0.2%	0.2%	0.2%	0.2%	0.2%	0.2%
29	Exercise Price @ 0.066	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.1%
30	Exercise Price @ 0.072	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.5%	0.5%	0.5%	0.5%
31	Exercise Price @ 0.094	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%	0.1%	0.1%
32	Exercise Price @ 0.170	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.7%	0.7%
33	Exercise Price @ 0.206	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.1%
34		100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%
<u>Allocation of Value</u>											
<u>Preferred Share Classes</u>											
35	Series A @ \$0.150	\$ -	\$ 3,001,537	\$ 296,300	\$ 418,261	\$ 935,326	\$ 638,070	\$ 959,915	\$ 2,026,906	\$ 1,770,950	\$ 46,504,444
36	Series B @ \$0.1864	-	4,317,764	346,291	488,829	1,093,130	745,722	1,121,867	2,368,877	2,069,737	54,350,475
37	Series C @ \$0.564	22,829,733	-	376,747	531,821	1,189,270	811,308	1,220,535	2,577,219	2,251,769	59,130,568

Declaration of Scott Weingust, Appendix B

Asset Approach

NAV Equity Allocation - Step 2 - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)

Exhibit 16.2

Share Class	Series C, C-1, C-2	Series A, B Liq. Preference	\$0.015 Options Exercise	\$0.030 Options Exercise	\$0.066 Options Exercise	\$0.072 Warrants / Options on Common Ex.	\$0.094 Options Exercise	\$0.170 Options Exercise	\$0.206 Options Exercise	All Class Participate
38 Series C-1 @ \$3.00	51,906,997	-	161,040	227,326	508,351	346,792	521,715	1,101,626	962,513	25,275,222
39 Series C-1 @ \$15.00	77,319,588	-	47,976	67,724	151,446	103,315	155,427	328,192	286,748	7,529,889
40 Series C-2 @ \$17.00	383,324,731	-	209,868	296,252	662,486	451,941	679,902	1,435,646	1,254,354	32,938,835
<u>Warrants on Common</u>										
41 Exercise Price @ 0.072	-	-	-	-	-	-	15,370	32,454	28,356	744,618
42 Common	-	-	1,938,013	2,735,724	6,117,689	4,173,427	6,278,518	13,257,394	11,583,258	304,171,822
<u>Options on Common</u>										
43 Exercise Price @ 0.015	-	-	-	3,160	7,067	4,821	7,253	15,316	13,382	351,393
44 Exercise Price @ 0.030	-	-	-	-	23,643	16,129	24,265	51,236	44,766	1,175,536
45 Exercise Price @ 0.066	-	-	-	-	-	7,542	11,346	23,958	20,933	549,680
46 Exercise Price @ 0.072	-	-	-	-	-	-	53,450	112,861	98,609	2,589,443
47 Exercise Price @ 0.094	-	-	-	-	-	-	-	13,675	11,948	313,744
48 Exercise Price @ 0.170	-	-	-	-	-	-	-	-	151,879	3,988,271
49 Exercise Price @ 0.206	-	-	-	-	-	-	-	-	-	608,779
50	535,381,049	7,319,302	3,376,236	4,769,097	10,688,408	7,299,068	11,049,563	23,345,360	20,549,199	539,613,940

Preferred Share Classes	Total Value	Per Share Marketable
51 Series A	\$ 56,551,709	\$ 1.22
52 Series B	66,902,692	1.24
53 Series C	90,918,970	1.54
54 Series C-1	81,011,581	3.22
55 Series C-1	85,990,305	11.47
56 Series C-2	421,254,016	12.84

<u>Warrants on Common</u>		
57 Exercise Price @ 0.072	\$ 820,798	\$ 1.11
58 Common	\$ 350,255,846	\$ 1.16
<u>Options on Common</u>		
59 Exercise Price @ 0.015	\$ 402,393	\$ 1.15
60 Exercise Price @ 0.030	1,335,575	1.14
61 Exercise Price @ 0.066	613,458	1.12
62 Exercise Price @ 0.072	2,854,363	1.11
63 Exercise Price @ 0.094	339,366	1.09
64 Exercise Price @ 0.170	4,140,150	1.04
65 Exercise Price @ 0.206	608,779	1.00

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 16.1.

Declaration of Scott Weingust, Appendix B

Asset Approach

Theranos Adjusted Net Asset Value - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)

Exhibit 17

Thousands USD		12/31/14 Unadjusted	Adjustments	Adjusted
Assets:				
1	Current Assets			
2	Current Operating Assets			
3	Cash & Equivalents	\$ 465,933	\$ -	\$ 465,933
4	Accounts Receivable	-	-	-
5	Inventory	2,383	-	2,383
6	Other Current Assets	12,788	-	12,788
7	Total Current operating Assets	481,104	-	481,104
8	Total Current Non-Operating Assets	-	-	-
9	Total Current Assets	481,104	-	481,104
10	Total Fixed Assets - Net	53,366	-	53,366
11	Other Assets			
	Intangible Assets			
12	Goodwill	-	-	-
13	Other Intangible Assets	[1] -	847,670	847,670
14	Total Intangible Assets - Net	-	847,670	847,670
15	Total Long Term Receivables	27,045	-	27,045
16	Total Other Non-Current Assets	-	-	-
17	Total Non Current Assets	27,045	847,670	874,715
18	Total Assets	\$ 561,515	\$ 847,670	\$ 1,409,185
Liabilities and Equity:				
Liabilities				
20	Current Liabilities			
21	Current Operating Liabilities			
22	Accounts Payable	\$ 16,633	\$	16,633
23	Deferred Revenue	-		
24	Other Current Liabilities	400,359	(390,375)	9,984
25	Total Current Operating Liabilities	416,992	(390,375)	26,617

Declaration of Scott Weingust, Appendix B

Asset Approach

Theranos Adjusted Net Asset Value - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)

Exhibit 17

<i>Thousands USD</i>		12/31/14 Unadjusted	Adjustments	Adjusted
26	Total Current Debt Obligations	-	-	-
27	Total Current Liabilities	416,992	(390,375)	26,617
28	Non Current Liabilities			
29	Total Long Term Debt	40,805	-	40,805
30	Other Non Current Liabilities			
31	Deferred Rent	-	-	-
32	Deferred Revenue, LT	-	-	-
33	Customer Deposits	143,846		143,846
34	Other Non-current liabilities	33,750		33,750
35	Total Other Non Current Liabilities	177,596	-	177,596
36	Total Non Current Liabilities	218,401	-	218,401
37	Total Liabilities	\$ 635,393	\$ (390,375)	\$ 245,018
38	Total Equity Value - Controlling, Marketable Basis			\$ 1,164,167
39	Total Equity Value - Controlling, Marketable Basis (rounded)			\$ 1,164,000

See Expert Report of Carl S. Saba, dated September 8, 2022.

[1] See Exhibit 18.

Declaration of Scott Weingust, Appendix B

Asset Approach

Cost Method - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return)

Exhibit 18

		Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11
1 Inflation Adjusted Annual Cost	[1]	\$ 8,078,534	\$ 8,078,534	\$ 8,078,534	\$ 20,667,544	\$ 15,502,206	\$ 15,294,493	\$ 21,051,759	\$ 31,794,773	\$ 85,119,867	\$ 90,613,216	\$ 151,813,833
2 Obsolescence Adjustment	[2]	4,039,267	4,039,267	4,039,267								
3 Annual Cost after Obsolescence Adjustment		\$ 4,039,267	\$ 4,039,267	\$ 4,039,267	\$ 20,667,544	\$ 15,502,206	\$ 15,294,493	\$ 21,051,759	\$ 31,794,773	\$ 85,119,867	\$ 90,613,216	\$ 151,813,833
4 Developer's Profit %	[1]	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%	15%
5 Developer's Profit		\$ 605,890	\$ 605,890	\$ 605,890	\$ 3,100,132	\$ 2,325,331	\$ 2,294,174	\$ 3,157,764	\$ 4,769,216	\$ 12,767,980	\$ 13,591,982	\$ 22,772,075
6 Inflation Adjusted Annual Costs with Obsolescence Factor and Developer's Profit		\$ 4,645,157	\$ 4,645,157	\$ 4,645,157	\$ 23,767,676	\$ 17,827,537	\$ 17,588,667	\$ 24,209,523	\$ 36,563,989	\$ 97,887,847	\$ 104,205,198	\$ 174,585,908
7 Expected Annual Return	[3]	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%	27.0%
8 Cumulative Periods	[4]	10.50	9.50	8.50	7.50	6.50	5.50	4.50	3.50	2.50	1.50	0.50
9 Expected Cumulative Return		283.5%	256.5%	229.5%	202.5%	175.5%	148.5%	121.5%	94.5%	67.5%	40.5%	13.5%
10 Total Opportunity Cost		\$ 13,169,020	\$ 11,914,827	\$ 10,660,635	\$ 48,129,543	\$ 31,287,327	\$ 26,119,170	\$ 29,414,570	\$ 34,552,970	\$ 66,074,297	\$ 42,203,105	\$ 23,569,098
11 Inflation Adjusted Annual Costs with Obsolescence Factor, Developer's Profit, and Opportunity Cost Adjustment		\$ 17,814,177	\$ 16,559,984	\$ 15,305,792	\$ 71,897,219	\$ 49,114,864	\$ 43,707,837	\$ 53,624,093	\$ 71,116,959	\$ 163,962,144	\$ 146,408,304	\$ 198,155,006
12 Total Inflation Adjusted Annual Costs with Obsolescence Factor, Developer's Profit, and Opportunity Cost Adjustment		<u>\$ 847,666,378</u>										
13 Total Inflation Adjusted Annual Costs with Obsolescence Factor, Developer's Profit, and Opportunity Cost Adjustment , Rounded		<u>\$ 847,670,000</u>										

[1] See Exhibit 4.1.2 Saba and Saba Report Exhibit H.2. Represents annual expenses from 2004 - 2014. Mr. Saba's expense line item that covers 2004-2006 has been distributed evenly across the first 3 years.

[2] See Exhibit 4.1.2 Saba and Saba Report Exhibit H.2. Assumes equal distribution of the \$12.1 million obsolescence adjustment.

[3] See Exhibit 5 .

[4] Adjustment for Opportunity Cost assumes midpoint convention.

Declaration of Scott Weingust, Appendix B
C-1 & C-2 Investor Details
Exhibit 19

	Investor Name	Class of Stock	No. of Shares	[1] Include
1	CENTRAL VALLEY ADMINISTRATORS	Series C-2	294,117	
2	PARTNER INVESTMENTS LP	Series C-2	3,263,529	Include
3	PFM HEALTHCARE MASTER FUND, L.P.,	Series C-2	2,255,096	Include
4	PFM HEALTHCARE PRINCIPALS FUND, L.P	Series C-2	136,669	Include
5	PEER VENTURES GROUP IV, L.P.	Series C-2	779,411	Include
6	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	8,823	
7	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	291,177	
8	MOSLEY FAMILY HOLDINGS LLC	Series C-2	352,941	Include
9	DYNASTY FINANCIAL II, LLC (BY RDV CORPORATION, ITS MANAGER)	Series C-2	5,882,352	Include
10	ANDREAS C. DRACOPOULOS	Series C-2	1,470,588	
11	Cox Investment Holdings, Inc	Series C-2	5,882,352	
12	MADRONE PARTNERS, LP	Series C-2	5,882,352	
13	SODA SPRING PARTNERS, LLC	Series C-2	2,941,176	
14	HENRY A KISSINGER 2014 GRANDCHILDREN'S TRUST	Series C-2	176,470	
15	BENDEL FUND	Series C-2	249,998	
16	Keith Rupert Murdoch	Series C-2	7,352,941	Include
17	EOSon Investments M Ltd	Series C-2	1,058,823	
18	EOSon Investments N Ltd	Series C-2	117,647	
19	Robert K. Kraft LLC	Series C-2	58,823	
20	INMOBILIARIA CARSO S.A. de C.V.	Series C-2	1,764,705	
21	David Boies	Series C-2	17,647	
22	Daniel C. Carter	Series C-1	5,000	
23	Crofton Capital GP	Series C-1	20,000	
24	Alan Eisenman	Series C-1	6,666	
25	Sherrie Eisenman	Series C-1	3,333	
26	Kendra Fadil	Series C-1	5,000	
27	Richard Kovacevich	Series C-1	10,000	Include
28	Gordon Family Trust	Series C-1	20,000	
29	Hall Black Diamond II, LLC	Series C-1	325,000	Include
30	Richard Kovacevich	Series C-1	266,666	Include
31	Lucas Venture Group IV LP	Series C-1	33,334	Include
32	Lucas Venture Group XI	Series C-1	471,333	Include
33	Mendenhall TF Partners	Series C-1	87,500	Include
34	PEER VENTURES GROUP IV, L.P.	Series C-1	1,169,995	Include
35	Black Diamond Ventures XII-B, LLC	Series C-1	356,660	Include
36	Boies, Schiller & Flexner LLP	Series C-1	322,879	
37	Colin Carter	Series C-1	16,666	

See 2022.09.02. Summary of C1 & C2 Investors.xlsx.

[1] United States of America v. Elizabeth A. Holmes, Transcript of Sentencing Proceedings, November 18, 2022, p.79.
I understand Partner Investments LP to be a PFM Healthcare entity.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (27% Discount Rate), Less Murdoch Exhibit 20.1**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	12,669,998	\$ 17.00	\$ 215,389,966	\$ 14.31	\$ 181,244,345	\$ 34,145,621
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.82	\$ 34,867,857	\$ 5,939,463
3					Total Loss	\$ 40,085,084

[1] See Exhibit 20.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 3.2.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (20% Discount Rate), Less Murdoch Exhibit 20.2**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	12,669,998	\$ 17.00	\$ 215,389,966	\$ 15.60	\$ 197,635,320	\$ 17,754,646
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 14.02	\$ 38,153,129	\$ 2,654,191
3					Total Loss	\$ 20,408,837

[1] See Exhibit 20.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit A.4.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return), Less Murdoch Investment****Exhibit 20.3**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	12,669,998	\$ 17.00	\$ 215,389,966	\$ 13.86	\$ 175,639,021	\$ 39,750,945
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.41	\$ 33,752,995	\$ 7,054,325
3					Total Loss	\$ 46,805,270

[1] See Exhibit 20.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 11.2.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return), Less Murdoch Investment****Exhibit 20.4**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	12,669,998	\$ 17.00	\$ 215,389,966	\$ 12.84	\$ 162,681,377	\$ 52,708,589
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 11.47	\$ 31,191,279	\$ 9,616,041
3					Total Loss	\$ 62,324,630

[1] See Exhibit 20.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 16.2.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Saba Income Approach (44% Discount Rate), Less Murdoch Investment Exhibit 20.5**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	12,669,998	\$ 17.00	\$ 215,389,966	\$ 11.63	\$ 147,352,077	\$ 68,037,889
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 10.36	\$ 28,184,256	\$ 12,623,064
3					Total Loss	\$ 80,660,954

[1] See Exhibit 20.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit A.4.

Declaration of Scott Weingust, Appendix B
C-1 & C-2 Investor Details - Less Murdoch Investment
Exhibit 20.6

	Investor Name	Class of Stock	No. of Shares	[1] Include
1	CENTRAL VALLEY ADMINISTRATORS	Series C-2	294,117	
2	PARTNER INVESTMENTS LP	Series C-2	3,263,529	Include
3	PFM HEALTHCARE MASTER FUND, L.P.,	Series C-2	2,255,096	Include
4	PFM HEALTHCARE PRINCIPALS FUND, L.P	Series C-2	136,669	Include
5	PEER VENTURES GROUP IV, L.P.	Series C-2	779,411	Include
6	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	8,823	
7	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	291,177	
8	MOSLEY FAMILY HOLDINGS LLC	Series C-2	352,941	Include
9	DYNASTY FINANCIAL II, LLC (BY RDV CORPORATION, ITS MANAGER)	Series C-2	5,882,352	Include
10	ANDREAS C. DRACOPOULOS	Series C-2	1,470,588	
11	Cox Investment Holdings, Inc	Series C-2	5,882,352	
12	MADRONE PARTNERS, LP	Series C-2	5,882,352	
13	SODA SPRING PARTNERS, LLC	Series C-2	2,941,176	
14	HENRY A KISSINGER 2014 GRANDCHILDREN'S TRUST	Series C-2	176,470	
15	BENDEL FUND	Series C-2	249,998	
16	Keith Rupert Murdoch	Series C-2	7,352,941	EXCLUDE
17	EOSon Investments M Ltd	Series C-2	1,058,823	
18	EOSon Investments N Ltd	Series C-2	117,647	
19	Robert K. Kraft LLC	Series C-2	58,823	
20	INMOBILIARIA CARSO S.A. de C.V.	Series C-2	1,764,705	
21	David Boies	Series C-2	17,647	
22	Daniel C. Carter	Series C-1	5,000	
23	Crofton Capital GP	Series C-1	20,000	
24	Alan Eisenman	Series C-1	6,666	
25	Sherrie Eisenman	Series C-1	3,333	
26	Kendra Fadil	Series C-1	5,000	
27	Richard Kovacevich	Series C-1	10,000	Include
28	Gordon Family Trust	Series C-1	20,000	
29	Hall Black Diamond II, LLC	Series C-1	325,000	Include
30	Richard Kovacevich	Series C-1	266,666	Include
31	Lucas Venture Group IV LP	Series C-1	33,334	Include
32	Lucas Venture Group XI	Series C-1	471,333	Include
33	Mendenhall TF Partners	Series C-1	87,500	Include
34	PEER VENTURES GROUP IV, L.P.	Series C-1	1,169,995	Include
35	Black Diamond Ventures XII-B, LLC	Series C-1	356,660	Include
36	Boies, Schiller & Flexner LLP	Series C-1	322,879	
37	Colin Carter	Series C-1	16,666	

See 2022.09.02. Summary of C1 & C2 Investors.xlsx.

[1] United States of America v. Elizabeth A. Holmes, Transcript of Sentencing Proceedings, November 18, 2022, p.79.
I understand Partner Investments LP to be a PFM Healthcare entity.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (27% Discount Rate), Less RDV Investment
Exhibit 21.1**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	14,140,587	\$ 17.00	\$ 240,389,979	\$ 14.31	\$ 202,281,123	\$ 38,108,856
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.82	\$ 34,867,857	\$ 5,939,463
3					Total Loss	\$ 44,048,319

[1] See Exhibit 21.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 3.2.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (20% Discount Rate), Less RDV Investment
Exhibit 21.2**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	14,140,587	\$ 17.00	\$ 240,389,979	\$ 15.60	\$ 220,574,576	\$ 19,815,403
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 14.02	\$ 38,153,129	\$ 2,654,191
3					Total Loss	\$ 22,469,594

[1] See Exhibit 21.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit A.4.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return), Less RDV Investment****Exhibit 21.3**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	14,140,587	\$ 17.00	\$ 240,389,979	\$ 13.86	\$ 196,025,198	\$ 44,364,781
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.41	\$ 33,752,995	\$ 7,054,325
3					Total Loss	\$ 51,419,107

[1] See Exhibit 21.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 11.2.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return), Less RDV Investment****Exhibit 21.4**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	14,140,587	\$ 17.00	\$ 240,389,979	\$ 12.84	\$ 181,563,577	\$ 58,826,402
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 11.47	\$ 31,191,279	\$ 9,616,041
3					Total Loss	\$ 68,442,442

[1] See Exhibit 21.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 16.2.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Saba Income Approach (44% Discount Rate), Less RDV Investment****Exhibit 21.5**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	14,140,587	\$ 17.00	\$ 240,389,979	\$ 11.63	\$ 164,455,027	\$ 75,934,952
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 10.36	\$ 28,184,256	\$ 12,623,064
3					Total Loss	\$ 88,558,017

[1] See Exhibit 21.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit A.4.

Declaration of Scott Weingust, Appendix B
C-1 & C-2 Investor Details - Less RDV Investment
Exhibit 21.6

	Investor Name	Class of Stock	No. of Shares	[1] Include
1	CENTRAL VALLEY ADMINISTRATORS	Series C-2	294,117	
2	PARTNER INVESTMENTS LP	Series C-2	3,263,529	Include
3	PFM HEALTHCARE MASTER FUND, L.P.,	Series C-2	2,255,096	Include
4	PFM HEALTHCARE PRINCIPALS FUND, L.P	Series C-2	136,669	Include
5	PEER VENTURES GROUP IV, L.P.	Series C-2	779,411	Include
6	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	8,823	
7	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	291,177	
8	MOSLEY FAMILY HOLDINGS LLC	Series C-2	352,941	Include
9	DYNASTY FINANCIAL II, LLC (BY RDV CORPORATION, ITS MANAGER)	Series C-2	5,882,352	EXCLUDE
10	ANDREAS C. DRACOPOULOS	Series C-2	1,470,588	
11	Cox Investment Holdings, Inc	Series C-2	5,882,352	
12	MADRONE PARTNERS, LP	Series C-2	5,882,352	
13	SODA SPRING PARTNERS, LLC	Series C-2	2,941,176	
14	HENRY A KISSINGER 2014 GRANDCHILDREN'S TRUST	Series C-2	176,470	
15	BENDEL FUND	Series C-2	249,998	
16	Keith Rupert Murdoch	Series C-2	7,352,941	Include
17	EOSon Investments M Ltd	Series C-2	1,058,823	
18	EOSon Investments N Ltd	Series C-2	117,647	
19	Robert K. Kraft LLC	Series C-2	58,823	
20	INMOBILIARIA CARSO S.A. de C.V.	Series C-2	1,764,705	
21	David Boies	Series C-2	17,647	
22	Daniel C. Carter	Series C-1	5,000	
23	Crofton Capital GP	Series C-1	20,000	
24	Alan Eisenman	Series C-1	6,666	
25	Sherrie Eisenman	Series C-1	3,333	
26	Kendra Fadil	Series C-1	5,000	
27	Richard Kovacevich	Series C-1	10,000	Include
28	Gordon Family Trust	Series C-1	20,000	
29	Hall Black Diamond II, LLC	Series C-1	325,000	Include
30	Richard Kovacevich	Series C-1	266,666	Include
31	Lucas Venture Group IV LP	Series C-1	33,334	Include
32	Lucas Venture Group XI	Series C-1	471,333	Include
33	Mendenhall TF Partners	Series C-1	87,500	Include
34	PEER VENTURES GROUP IV, L.P.	Series C-1	1,169,995	Include
35	Black Diamond Ventures XII-B, LLC	Series C-1	356,660	Include
36	Boies, Schiller & Flexner LLP	Series C-1	322,879	
37	Colin Carter	Series C-1	16,666	

See 2022.09.02. Summary of C1 & C2 Investors.xlsx.

[1] United States of America v. Elizabeth A. Holmes, Transcript of Sentencing Proceedings, November 18, 2022, p.79.

I understand Partner Investments LP to be a PFM Healthcare entity.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (27% Discount Rate), Less Murdoch & RDV Investment****Exhibit 22.1**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	6,787,646	\$ 17.00	\$ 115,389,982	\$ 14.31	\$ 97,097,289	\$ 18,292,693
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.82	\$ 34,867,857	\$ 5,939,463
3					Total Loss	\$ 24,232,156

[1] See Exhibit 22.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 3.2.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Alternative Income Approach (20% Discount Rate), Less Murdoch & RDV
Exhibit 22.2**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	6,787,646	\$ 17.00	\$ 115,389,982	\$ 15.60	\$ 105,878,358	\$ 9,511,624
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 14.02	\$ 38,153,129	\$ 2,654,191
3					Total Loss	\$ 12,165,815

[1] See Exhibit 22.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit A.4.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 44% Rate of Return), Less Murdoch & RDV Investment****Exhibit 22.3**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	6,787,646	\$ 17.00	\$ 115,389,982	\$ 13.86	\$ 94,094,372	\$ 21,295,610
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 12.41	\$ 33,752,995	\$ 7,054,325
3					Total Loss	\$ 28,349,936

[1] See Exhibit 22.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 11.2.

Declaration of Scott Weingust, Appendix B**Asset Approach****Alleged Loss Realized by Investors - Alternative Asset Approach (Opportunity Cost Added Using 27% Rate of Return), Less Murdoch & RDV Investment****Exhibit 22.4**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	6,787,646	\$ 17.00	\$ 115,389,982	\$ 12.84	\$ 87,152,626	\$ 28,237,356
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 11.47	\$ 31,191,279	\$ 9,616,041
3					Total Loss	\$ 37,853,397

[1] See Exhibit 22.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 16.2.

Declaration of Scott Weingust, Appendix B**Income Approach****Alleged Loss Realized by Investors - Saba Income Approach (44% Discount Rate), Less Murdoch & RDV****Exhibit 22.5**

	[1]	[2]		[3]		
	Series C-2 Shares	Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price	Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	6,787,646	\$ 17.00	\$ 115,389,982	\$ 11.63	\$ 78,940,323	\$ 36,449,659
	Series C-1 Shares	Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price	Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	\$ 15.00	\$ 40,807,320	\$ 10.36	\$ 28,184,256	\$ 12,623,064
3					Total Loss	\$ 49,072,723

[1] See Exhibit 22.6.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Expert Report of Carl S. Saba, dated September 8, 2022, Exhibit A.4.

Declaration of Scott Weingust, Appendix B
C-1 & C-2 Investor Details - Less Murdoch & RDV Investment
Exhibit 22.6

	Investor Name	Class of Stock	No. of Shares	[1] Include
1	CENTRAL VALLEY ADMINISTRATORS	Series C-2	294,117	
2	PARTNER INVESTMENTS LP	Series C-2	3,263,529	Include
3	PFM HEALTHCARE MASTER FUND, L.P.,	Series C-2	2,255,096	Include
4	PFM HEALTHCARE PRINCIPALS FUND, L.P	Series C-2	136,669	Include
5	PEER VENTURES GROUP IV, L.P.	Series C-2	779,411	Include
6	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	8,823	
7	RILEY P. BECHTEL & SUSAN P. BECHTEL	Series C-2	291,177	
8	MOSLEY FAMILY HOLDINGS LLC	Series C-2	352,941	Include
9	DYNASTY FINANCIAL II, LLC (BY RDV CORPORATION, ITS MANAGER)	Series C-2	5,882,352	EXCLUDE
10	ANDREAS C. DRACOPOULOS	Series C-2	1,470,588	
11	Cox Investment Holdings, Inc	Series C-2	5,882,352	
12	MADRONE PARTNERS, LP	Series C-2	5,882,352	
13	SODA SPRING PARTNERS, LLC	Series C-2	2,941,176	
14	HENRY A KISSINGER 2014 GRANDCHILDREN'S TRUST	Series C-2	176,470	
15	BENDEL FUND	Series C-2	249,998	
16	Keith Rupert Murdoch	Series C-2	7,352,941	EXCLUDE
17	EOSon Investments M Ltd	Series C-2	1,058,823	
18	EOSon Investments N Ltd	Series C-2	117,647	
19	Robert K. Kraft LLC	Series C-2	58,823	
20	INMOBILIARIA CARSO S.A. de C.V.	Series C-2	1,764,705	
21	David Boies	Series C-2	17,647	
22	Daniel C. Carter	Series C-1	5,000	
23	Crofton Capital GP	Series C-1	20,000	
24	Alan Eisenman	Series C-1	6,666	
25	Sherrie Eisenman	Series C-1	3,333	
26	Kendra Fadil	Series C-1	5,000	
27	Richard Kovacevich	Series C-1	10,000	Include
28	Gordon Family Trust	Series C-1	20,000	
29	Hall Black Diamond II, LLC	Series C-1	325,000	Include
30	Richard Kovacevich	Series C-1	266,666	Include
31	Lucas Venture Group IV LP	Series C-1	33,334	Include
32	Lucas Venture Group XI	Series C-1	471,333	Include
33	Mendenhall TF Partners	Series C-1	87,500	Include
34	PEER VENTURES GROUP IV, L.P.	Series C-1	1,169,995	Include
35	Black Diamond Ventures XII-B, LLC	Series C-1	356,660	Include
36	Boies, Schiller & Flexner LLP	Series C-1	322,879	
37	Colin Carter	Series C-1	16,666	

See 2022.09.02. Summary of C1 & C2 Investors.xlsx.

[1] United States of America v. Elizabeth A. Holmes, Transcript of Sentencing Proceedings, November 18, 2022, p.79.
I understand Partner Investments LP to be a PFM Healthcare entity.

Declaration of Scott Weingust, Appendix B**Alleged Loss Realized by Investors - Saba Income Approach (44% Discount Rate)****Exhibit 23**

[1]

	Series C-2 Shares		Series C-2 Purchase Price	Series C-2 Value Based on Purchase Price		Series C-2 Value per Share, adjusted NAV Method	Series C-2 Value Based on adjusted NAV Method Price	Investor Loss
1	20,022,939	[2]	\$ 17.00	\$ 340,389,963	[3]	\$ 11.63	\$ 232,866,781	\$ 107,523,182
	Series C-1 Shares		Series C-1 Purchase Price	Series C-1 Value Based on Purchase Price		Series C-1 Value per Share, adjusted NAV Method	Series C-1 Value Based on adjusted NAV Method Price	Investor Loss
2	2,720,488	[2]	\$ 15.00	\$ 40,807,320	[3]	\$ 10.36	\$ 28,184,256	\$ 12,623,064
3							Total Loss	\$ 120,146,247

[1] See Exhibit 19.

[2] See Expert Report of Carl S. Saba, dated September 8, 2022.

[3] See Exhibit 11.2. Reflects the adjusted Series C-1 and C-2 price per share based on the NAV method as of 12/31/2014.

EXHIBIT 47

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

**ELIZABETH HOLMES and
RAMESH “SUNNY” BALWANI,**

Defendants.

§
§
§
§
§
§
§
§
§
§

CR-18-00258-EJD

Declaration of Tobin J. Reiff

I, Tobin J. Reiff, under penalty of perjury, declare the following information to be true and correct:

1. I am a Managing Director in the Valuation Advisory group at Stout Risius Ross, LLC (“Stout”). I have significant experience in providing business valuation services. I have been hired on hundreds of occasions to provide valuation-related services and opinions regarding closely held businesses to parties in litigation, to boards of directors for M&A and capital raising transaction advisory purposes, and for tax and financial reporting purposes. I have served as an expert in valuation disputes and have lectured/presented numerous continuing education seminars about valuation and transaction advisory services. I received a Bachelor of Business Administration degree at the University of Notre Dame with a major in Finance and a minor in Accounting. I am a CFA Charterholder, having passed the rigorous exams on the first attempt in three consecutive years. I am a member of the CFA Institute, CFA Society of Houston, and the Forensic and Business Valuation Division of the AAML Foundation. Based on my education, training, and experience, I am well qualified to offer the valuation opinions set forth below. The opinions offered in this declaration are based on my education, training, and experience in the field of business and equity valuation. A copy of my CV is attached as Appendix A.
2. I have been retained by counsel for Ramesh Balwani to review an expert report,

dated September 8, 2022 (the “Saba Report”), prepared by Carl S. Saba, MBA, CVA, ASA, ABV (“Saba”) in the matter of *United States of America v. Elizabeth Holmes and Ramesh “Sunny” Balwani*, CR-18-00258 (the “Matter”).


3. The Saba Report first presents Saba’s estimation of the fair market value of 100% of the equity of Theranos, Inc. (“Theranos”), representing the bulk of the Saba Report and on which I offer no opinions herein. As a secondary step after determining Theranos’ total equity value, Saba performed an analysis to allocate the total equity value to all of the securities in Theranos’ capital structure, across all share classes. Saba conducts an analysis referred to as an option pricing model (“OPM”) for this purpose. My opinions herein pertain to the OPM.
4. As its name indicates, the OPM is an option-based analytical model whereby the equity securities of a company are treated as call options on total equity value. The value of a call option is highly dependent on and sensitive to two primary inputs in particular: (1) the stated term of the stock option (i.e., the length of time until it expires) and (2) the expected future volatility of the underlying stock. For stock options of a publicly traded company, these important valuation inputs can be assessed with relative confidence: the term of the option is a fixed time period via the option agreement, and the expected future volatility of the underlying stock – while not known with certainty – can be estimated based on the stock’s observable and measurable historical volatility via its daily trading history. As discussed below, this exercise is far more complicated for a private company.
5. For a private company, there is no stated term; rather, this input must be guessed. Likewise, there is no observable volatility; this input too must be guessed. The value resulting from the OPM is highly dependent on these two analogous primary inputs: (1) the period of time until the occurrence of a future liquidity event¹ (i.e., an estimated “term”) and (2) the expected future volatility of the underlying equity over this period. However, these important inputs are very difficult to determine for a private company such as Theranos and require an inordinately high level of speculation about the future. Moreover, these two inputs in particular can have an extremely significant impact on value.
6. Specifically, the period of time until a future liquidity event for a private company, and particularly an early-stage private company such as Theranos, is completely unknown, must be guessed, and cannot be tested for accuracy (other than retrospectively, years later, when and if a liquidity event actually occurs). Without a crystal ball, one could not know the time period until a future liquidity event with confidence. Saba estimates a four-year holding period, but another valuation expert could reasonably argue for a meaningfully different time period with an equally insufficient supporting rationale, which would significantly change the value resulting from the OPM.

¹ For example, a sale or IPO of the company.

7. Likewise, historical equity volatility is not observable for a private company since its shares are not publicly traded. Accordingly, a business valuation expert is unable to study a private company's historical equity volatility in order to gauge an estimate of future volatility, nor to test the reasonableness of the estimate. Saba assumes equity volatility of 55% based on a review of other publicly traded companies. However, particularly for an early-stage private company such as Theranos, underlying equity volatility is likely to significantly differ from public companies, potentially undermining the comparability, and therefore materially affecting the output of the OPM.
8. I make the foregoing declarations to highlight: (1) Saba's use of an option-based method to allocate equity value amongst Theranos' security classes, (2) Saba's use of an option-based model, the OPM, to perform this allocation, (3) the particular dependency of the output of the OPM on unobservable inputs, and (4) the significant degree of speculation inherent in estimating these inputs which ultimately drive the output of the OPM. It is important to consider and understand the relative precision, accuracy, and potential for error of the OPM when used in this manner to assign equity value to Theranos' equity classes. The OPM is highly dependent on term and volatility assumptions representing the most impactful inputs in the model, and both of which essentially represent guesses in the case of a private company. Ultimately, the use of the OPM for purposes of determining the value of any class of securities of Theranos is inherently uncertain and based on speculation.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Harris County, State of Texas, on the 30th day of November, 2022.



Tobin J. Reiff, CFA

Appendix A

Tobin J. Reiff
Managing Director



Houston, TX USA
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Mobile: +1.312.720.8211
treiff@stout.com

Education

B.B.A.
University of Notre Dame

Designations

Chartered Financial Analyst (CFA)

Practice Areas

Valuation Disputes
Shareholder & Succession Planning
Transaction Opinions

Tobin Reiff is a Managing Director in the Valuation Advisory group. He has extensive experience providing professional valuation advisory services to multi-billion-dollar enterprises, middle-market businesses, private equity and hedge funds, law firms and attorneys, tax advisors, and individuals.

Mr. Reiff has been engaged as an expert on litigation involving complex valuation issues including shareholder disputes, transaction disputes, marital dissolution, probate matters, and corporate litigation. Mr. Reiff has extensive experience providing valuation consulting services to companies for transaction advisory purposes, including fairness and solvency opinions. Mr. Reiff also provides valuation advisory services for gift and estate planning and tax reporting purposes.

Mr. Reiff has published articles, lectured, and participated in continuing education seminars on the subjects of valuation, litigation advisory services, succession planning, and transaction advisory services.

Professional Memberships

- CFA Institute
- CFA Society of Houston
- AAML Foundation Forensic & Business Valuation Division

Tobin J. Reiff
Managing Director



Testimony Experience

Kulwinder Walia v. Ajay Singh Dhillon, Tabbassum Mumtaz, et al., American Arbitration Association, No. 01-21-0016-2919, 2022

Matthew Smith v. Microvast, Inc., Yang Wu, and Yanzhuan "Leon" Zheng, District Court of Harris County, Texas - 234th Judicial District, No. 2018-07693, 2022

Tim Walsh, et al. v. Clifford M. Buchholz, St. Renatus, LLC, et al., United States District Court, District of Minnesota, No. 0:19-cv-1856 DSB-HB, 2022

Sandra N. Eddleman, et al. v. Joann Roemer Jones, et al., Superior Court of the State of California, County of San Luis Obispo, No. 16CV-0417, 2020

In re: Samson Resources Corporation, Reorganized Debtor; Peter Kravitz, as Settlement Trustee of and on behalf of the Samson Settlement Trust v. Samson Energy Company, LLC, et al., United States Bankruptcy Court, District of Delaware, Adv. Proc. No. 17-51524 (BLS), 2020

First Water Advisors, LLC v. H&M Bakery, LLC, et. al., District Court of Harris County, Texas – 113th Judicial District, No. 2017-71537, 2019

Cary Rossel and Jerry Cargill v. Glazer's, Inc., Southern Glazer's Wine and Spirits, LLC, Southern Glazer's Wine and Spirits of Texas, LLC f/k/a Glazer's Distributors of Texas, Inc. f/k/a Glazer's Wholesale Drug Co., Inc., Southern Glazer's Wine and Spirits of Louisiana, LLC, Southern Glazer's Wine and Spirits of Arkansas, LLC, District Court of Dallas County, Texas - G-134th Judicial District, No. DC-16-00221, 2017

Market Tech Media Corporation v. Register Tapes Unlimited, Inc., et al., District Court of Harris County, Texas, No 2013-44115, 2016

In the Matter of the Marriage of Jonathon Scott Olson and Caroline Suzanne Olson, District Court of Harris County, Texas – 247th Judicial District, 2015

Cindy F. Wile, Kenneth E. Wile, and Relax-A-Wile, L.P. v. Holland & Knight LLP, David Shayne, Todd J. Schneider, and Paul Gravenhorst, State of Illinois, Circuit Court of Cook County, 2012

King Spa Sauna, LLC and Byung T. Kim v. David M. Park, State of Illinois, Circuit Court of Cook County, 2012

Publications

"Analyzing Chancery Decisions On Long-Term Growth Rates," *Law360*, September 2018

"Long-Term Growth Rate Trends in Delaware Chancery Decisions," *The Stout Journal*, Fall/Winter 2018

"Avoiding Problems with Shareholders' Agreements: Reviewing These Provisions Helps Prevent Future Disputes," *The Stout Journal*, Fall 2011

Tobin J. Reiff
Managing Director



Speeches and Seminars

National Family Law Trial Institute – Advanced Cross Examination, South Texas College of Law, 2022, 2017

How to Critically Review a Business Valuation Report, Texas Society of Certified Public Accountants - 2020 CPE By the Sea Conference, July 2020

National Family Law Trial Institute, South Texas College of Law, 2019, 2016, 2014, 2013

For What It's Worth: Business Valuation, Houston Young Lawyers Association, Houston Bar Association, May 2018

M&A: Supplementing Organic Growth with Acquisition, The Presidents' Forum of Houston, 2015

Valuing a Business for Sale, Financial Poise Webinar, 2014

Hot Topic Valuation Issues Targeted by the Service in Estate & Gift Tax Disputes, Chicago Bar Association, 2012

Taxation of Estates, Gifts and Trusts, Master of Laws (LLM) program at Northwestern University Law School, 2011

Pre-Transaction Valuation Issues in the Estate Planning Process, Stout Webinar, 2011